

## **DISTRICT OF COLUMBIA APPROPRIATIONS FOR FISCAL YEAR 2005**

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**WEDNESDAY, FEBRUARY 25, 2004**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 9:35 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Mike DeWine (chairman) presiding.  
Present: Senators DeWine and Landrieu.  
Also present: Ms. Norton and Senator Strauss.

### **DISTRICT OF COLUMBIA**

#### **COURTS**

**STATEMENT OF ANNICE M. WAGNER, CHIEF JUDGE, DISTRICT OF COLUMBIA COURT OF APPEALS; CHAIR, JOINT COMMITTEE ON JUDICIAL ADMINISTRATION**

**ACCOMPANIED BY RUFUS G. KING, III, CHIEF JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

#### **OPENING STATEMENT OF SENATOR MIKE DE WINE**

Senator DEWINE. Welcome, everyone. We have with us this morning two members of the Kiev City Council. Let me see if I can do the pronunciation, Yurly Zumko and Andre Radrewski. If you could stand, in the back. Thank you very much for joining us. I am glad to have you with us.

I hope you enjoy your stay with us today; I hope we do not bore you too much with our hearing today.

This hearing today will come to order. We will convene the first fiscal year 2005 budget hearing for the District of Columbia.

I want to take this opportunity to, again, thank Senator Landrieu, our subcommittee's Ranking Member and to recognize her continued commitment to improving life for the residents of this Nation. It is good to be with you again.

Over the years, Senator Landrieu and I have worked together on a number of important issues for our Nation's Capital, and I am sure that we will continue to work together this year as we work on the fiscal year 2005 D.C. Appropriations Bill.

Today, we are considering the fiscal year 2005 budget request for the District of Columbia Courts. Under the National Capital Revitalization and Self-Government Improvement Act of 1997, the Federal Government is required to finance the District of Columbia Courts.

The President has requested \$228 million for the Courts in fiscal year 2005. This is \$60.2 million more than the fiscal year 2004 enacted level. I understand that the lion's share of this increase is to be used to restore the now vacant Old Courthouse, so that it can house the Court of Appeals, which in turn, will free up more space in the Moultrie Courthouse for a safe, family-friendly Family Court.

The renovation of the Old Courthouse also will be an important historical preservation achievement. This building, the fourth oldest in the District of Columbia, has great historic significance. It is where President Lincoln's first inaugural ball was held, and where his assassination conspirators were tried and convicted.

For a time, the building served as a hospital for the wounded soldiers of the Union Army. It is here where Frederick Douglass had his offices and where Daniel Webster practiced law.

The fiscal year 2005 funding request will allow this very historic building to be restored to its former majesty, while also configuring it to be used to serve the people of the District as a working courthouse.

I am pleased that Judge Wagner, Judge King followed the advice of this subcommittee and made a compelling case to OMB to support these construction efforts. I congratulate them for it. It is to their credit that the President has included adequate funding for these important Capital projects in his budget request.

I must say, however, that I am concerned to know that court officials and representatives of the National Law Enforcement Museum Fund have, unfortunately, been unable to reach an agreement on the design of their shared space in Judiciary Square.

On the one hand, Congress has mandated that the Courts reorganize and improve their services and facilities, which the Courts are beginning with the renovation of the Old Courthouse. On the other hand, Congress authorized the National Law Enforcement Memorial Fund to build an underground Law Enforcement Museum on Federal land that partially abuts the Old Courthouse. It is my firm belief that the Courts and the Law Enforcement Memorial Fund should reach an agreement that complies with both mandates. I am sure that they will be able to do this.

I understand that the Courts and the Memorial Fund fundamentally disagree on the level of construction and the design of the plaza area, which will provide the entryway to both buildings. This disagreement has apparently been going on for almost a year, with no resolution in sight.

I am concerned that this apparent impasse will result in delays to the construction schedule and, in turn, increased construction costs.

As chairman of this subcommittee, which appropriates 100 percent of the funding for the D.C. Courts, I want to work to ensure that there are no construction cost overruns involving Federal funds.

As our hearing begins, Judge Wagner and Judge King will present the Courts' overall budget request, and then I will ask our witnesses from the National Law Enforcement Memorial Fund, the National Capital Planning Commission, and the Commission of

Fine Arts to join the panel to discuss the design disagreement, which I have just mentioned.

#### PREPARED STATEMENT

Witnesses will be, of course, be limited to 5 minutes for their oral remarks. Copies of all written statements will be placed in the record in their entirety.

[The statement follows]:

#### PREPARED STATEMENT OF SENATOR MIKE DeWINE

Good morning. This hearing will come to order. Today I am convening the first fiscal year 2005 budget hearing for the District of Columbia. I want to take this opportunity to thank Senator Landrieu, our subcommittee's Ranking Member, and to recognize her continued commitment to improving life for the residents of the District of Columbia. Over the years, Senator Landrieu and I have worked together on a number of important issues for our Nation's capital, and I am sure that we will continue to reach across the aisle as we begin work on the fiscal year 2005 District of Columbia appropriations bill.

Today, we are considering the fiscal year 2005 budget request for the District of Columbia Courts. Under the National Capital Revitalization and Self-government Improvement Act of 1997, the Federal Government is required to finance the District of Columbia Courts.

The President has requested \$228 million for the Courts in fiscal year 2005. This is \$60.2 million more than the fiscal year 2004 enacted level. I understand that the lion's share of this increase will be used to restore the now-vacant Old Courthouse so that it can house the Court of Appeals, which, in turn, will free up more space in the Moultrie Courthouse for a safe, family-friendly Family Court. The renovation of the Old Courthouse also will be an important historic preservation achievement. This building—the 4th oldest in the District of Columbia—has great historic significance. It is where President Lincoln's first inaugural ball was held and where his assassination conspirators were tried and convicted. For a time, the building served as a hospital for wounded soldiers of the Union Army. It is here where Frederick Douglass had his offices and where Daniel Webster practiced law.

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I am pleased that Judge Wagner and Judge King followed the advice of this subcommittee and made a compelling case to OMB to support these construction efforts. It is to their credit that the President has included adequate funding for these important capital projects in his budget request. I am concerned, however, to know that Court officials and representatives of the National Law Enforcement Museum Fund have been unable to reach an agreement on the design of their shared space in Judiciary Square. On the one hand, Congress has mandated that the Courts reorganize and improve their services and facilities, which the Courts are beginning with the renovation of the Old Courthouse. On the other hand, Congress authorized the National Law Enforcement Memorial Fund to build an underground Law Enforcement Museum on Federal land that partially abuts the Old Courthouse. It is my firm belief that the Courts and the Law Enforcement Memorial Fund should reach an agreement that complies with both mandates.

I understand that the Courts and the Memorial Fund fundamentally disagree on the level of construction and the design of the plaza area, which will provide the entryway to both buildings. This disagreement has apparently been going on for almost a year, with no resolution in sight. I am concerned that this apparent impasse will result in delays to the construction schedule and, in turn, increased construction costs. As Chairman of this subcommittee, which appropriates 100 percent of the funding for the D.C. Courts, I want to work to ensure that there are no construction cost overruns involving Federal funds.

As our hearing begins, Judge Wagner and Judge King will present the Courts' overall budget request, then I will ask our witnesses from the National Law Enforcement Memorial Fund, the National Capital Planning Commission, and the Commission of Fine Arts to join the panel to discuss the design disagreement which I have mentioned.

Witnesses will be limited to 5 minutes for their oral remarks. Copies of all written statements will be placed in the Record in their entirety.

Senator DEWINE. Senator Landrieu.

STATEMENT OF SENATOR MARY L. LANDRIEU

Senator LANDRIEU. Thank you. Thank you, Mr. Chairman. And welcome to our distinguished panelists this morning, and welcome to all of our guests.

I want to just reiterate again how much of a pleasure it is for me to work with Senator DeWine. We have worked as a partnership now for several years and we can see such progress, particularly in the area that we are going to be discussing this morning, the renovation and development of Judiciary Square, the establishment of a very family-friendly or child-centered Family Court that will service not only the District, but serve as a model for the Nation.

We commend you all for the work that is ongoing, and we look forward to continuing the partnership in that regard.

I also express, again, the importance, at least from our perspective, Mr. Chairman, of the focus on establishing the new Family Court, because not only are we establishing a new building that is operational and conducive to good judgments and outcomes, but through the partnership of this committee, it can help to build a new initiative in the City that strengthens families, protects children from harm and expedites life changing and sometimes threatening decisions, to make sure that families and the well-being of children are of paramount importance for us, for this committee.

PREPARED STATEMENT

So with that, I will just put the rest of my statement in the record. And thank you, Mr. Chairman, for the focus this morning. [The statement follows:]

PREPARED STATEMENT OF SENATOR MARY L. LANDRIEU

As the first hearing of year I wanted to join my Chairman, Mr. DeWine in welcoming the witnesses and sharing a brief philosophy on our leadership of this committee and our goals. The D.C. Appropriations bill, under my chairmanship and continuing with Mr. DeWine, has charted a course to support targeted investments in the District. Congress is partnering with the District by enhancing security and emergency preparedness; strengthening schools and education standards; supporting the Family Court and child welfare. These three areas support the District's Mayor Anthony Williams' goal to revitalize neighborhoods and increase the population of the city by 100,000 people in the next 10 years. People want good schools and dynamic, safe neighborhoods. This committee will continue this partnership, following on our investments in the Family Court and child services and development of excellent charter schools.

Today's hearing is focused on one of our Federal agencies, the D.C. Courts to discuss their fiscal year 2005 budget request. In addition, we have asked the National Capital Planning Commission, Commission on Fine Arts, and the National Law Enforcement Museum to join us to discuss the Judiciary Square Master Plan and we appreciate their attendance. The Courts are really the core of the D.C. Appropriations bill and the center of our attention. This subcommittee exercises the "State" oversight function for the District, similar to how other cities and States interact.

As one of the central functions transferred to the Federal Government in the 1997 Revitalization Act, the Courts serve a unique role to serve the public and be accountable to the Congress. I believe this Court, lead by Chief Judge King and Chief Judge Wagner has met this responsibility aptly. The fiscal year 2005 budget reflects a commitment to improved management of the Courts and justification for increased budget authority.

The focus of this year's budget is infrastructure, and I commend the Courts for making this a priority. In addition, I am pleased to see over the 3 years that I have

been on this committee that the Courts have undertaken facilities Master Planning process in close consultation with the Federal oversight panels. I look forward to a presentation on the Master Plan for Judiciary Square and supporting the Courts' needs for implementing this plan. Major renovation and expansion of the Courts' facilities is important to this committee; however we want to examine the process undertaken to prioritize these projects and decisions made to focus on construction/renovation rather than rehabilitation of existing buildings. I understand that there are serious maintenance issues in the current facilities, such as inadequate heating and air conditioning, poor lavatories, and an unfriendly public space.

This committee has invested in regular maintenance at levels much higher than our predecessors. I think much progress has been made; however I understand the need for the focus to shift now to long term capital projects, such as constructing a new Family Court and completing the restoration of the Old Courthouse. These are "marquee" projects which receive a great deal of attention from Congress and the community, but they are also much more costly and therefore take a greater bite out of the budget. I recognize their importance but there is also a balance with ongoing maintenance and making improvements to public space while rehabilitation projects are underway. I would be interested to hear your thoughts on balancing these capital infrastructure needs.

The committee is also joined by witnesses from the National Capital Planning Commission, Commission on Fine Arts, and the National Law Enforcement Museum to discuss judiciary square master planning. The committee is particularly concerned with lack of coordination and cooperation with the Museum. Federal dollars and oversight is directing the development of Judiciary Square. It is critical that we can appropriately direct resources to the moving priorities that also reflect the needs of the District. The committee has been actively engaged in creation of the family court and need for a dedicated space for children and families. Progress of the family court construction is dependent on agreement of the law enforcement museum and Old Courthouse, freeing up space in the main Courthouse. I look forward to hearing progress of the various projects and options for moving forward with restoration of the square to the original historic design.

I appreciate your attendance today and look forward to working to improve the appearance and utility of Judiciary Square.

#### PREPARED STATEMENT OF SENATOR PAUL STRAUSS

Senator DeWINE. Senator Landrieu, thank you very much. Senator Strauss has provided a statement to be included for the record as well.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR PAUL STRAUSS

Chairman DeWine, Ranking Member Landrieu, and others on the subcommittee, as the elected United States Senator for the District of Columbia, and an attorney who practices in our local courts, I would like to thank you for holding this hearing this morning, and for considering the needs of the people in the District of Columbia.

I fully support the fiscal year 2005 Budget Request for the District of Columbia Courts. It is vital that the District of Columbia Court System be fully funded in the amount proposed by the courts. As the District of Columbia Senator, I myself cannot vote on this appropriation. I am limited to merely asking you to support their requests.

As in the past, it appears that the President's request is significantly less than the amount requested by our judicial institutions. I find this unfortunate. Unlike citizens of any other jurisdiction, we lack the legal rights to make these funding decisions on our own. As I have stated before, unless the local courts are fully funded by this subcommittee and the Congress, they will not be fully funded. This is not just an issue of simply allocating appropriations, but for the residents of our Nation's Capital, an issue of fundamental justice.

There is a compelling argument to be made that District of Columbia should not have to look to Congress for the sole financial support of its courts. I for one agree with that position. This is again a case where the many limits on the District of Columbia's ability to have self-government adversely impact the taxpayers of your own States. For the record, if Congress would simply grant the District of Columbia's petition for Statehood, the restrictions on our revenue-raising ability would be lifted and we could fund our court system ourselves and over \$260 million can be

returned to the Federal treasury. I have made this argument case many times before many committees of this body. I do not intend to discuss D.C. Statehood here today because the unfortunate truth is that while this status quo is maintained, it is absolutely essential that Congress fully fund the D.C. Court System, and I am obligated to support that appropriation.

The President is requesting \$225 million for the District of Columbia Courts for the fiscal year 2005 budget and \$41.5 million to the Defender Services. The Courts themselves are requesting \$272.08 million for the fiscal year 2005 budget and \$50.5 million for Defender Services. The fiscal year 2005 budget request for the District of Columbia Courts furthers the Courts developments by building upon prior achievements, and supports the Courts' commitment to serve the citizens of the District of Columbia. The D.C. Courts will be more empowered to fulfill this commitment by having the necessary funds to do so, and will be extremely limited in their abilities if they do not.

In order for the District of Columbia Courts to continue to provide the highest level of justice to the citizens of the District of Columbia, it is crucial that they receive additional resources in the fiscal year 2005. The Court's requests command considerable capital investments in facilities, infrastructure, security, and technology, as well as operational investments to enhance the administration of justice and service to the public. If the courts are unable to obtain additional capital resources, The Moultrie Courthouse and the District's historic Old Courthouse, along with Buildings A and B, will continue to deteriorate; the Courts' information technology will fail; and needed security measures and equipment will not be installed, putting the Courts' buildings and the public at risk.

I recognize that it can be tempting to refer to the increase of funds allotted to the District of Columbia Courts by the President in his request between 2004 and 2005 and conclude that the Court's needs have been met. I urge you to look past this deceiving increase. The Office of Management and Budget generated marks are inadequate to meet the needs of the District of Columbia Courts, and need to be considered a floor and not a ceiling for purposes of the fiscal year 2005 budget. I realize the President has other priorities, but the District of Columbia Courts are in dire need of revenue for program enhancements and physical improvements. The budget requests they have submitted are reasonable.

The current and future needs that will be met by the budget proposal submitted by the District of Columbia Courts are diverse. They include investing in human resources, broadening access to justice and service to the public, promoting competence, professionalism and civility, improving court facilities and technology, enhancing public security, and strengthening services to families. In this hearing, the witnesses have presented the fiscal marks that they request regarding the aforementioned capital improvements for the fiscal year 2005. With the cooperation of and significant input from General Services Administration, the District of Columbia Courts previously proposed a Master Plan for Facilities. The fiscal year 2005 capital request reflects the significant research and planning included in this Master Plan. It is essential that the Courts receive the funds needed to complete this three-part plan in order to ensure the health, safety, and quality of court facilities and begin to address court space needs.

Let me briefly address whatever conflicting design issues which may or may not exist between the D.C. Courts and the National Law Enforcement Fund. I am pleased that the D.C. Courts recently submitted a viable design that will simultaneously comply with Federal law and address the concerns of the Memorial Fund. The NCPC has encouraged the Memorial Fund to accept this resolution as a sound starting point for development, so that this project does not exceed budget restrictions, thereby costing taxpayers more money in order to complete it. Judiciary Square is the historic home of the D.C. Courts, and an original element of the L'Enfant plan. I am not convinced that any significant conflict between the plans of the two institutions exists. To the extent that one does however, any competing needs must be resolved in favor of our judicial branch. While the planned museum will no doubt enhance the culture and aesthetics of our community, the Court System is a necessary government function. While the Court System is ready now with capital funding, the museum continues to solicit private contributions. Any restriction of the Courts' mandatory operations would be a disservice to the people of D.C., no matter how noble the symbolism of the planned museum.

Notwithstanding the importance of fully funding the District of Columbia Court System operating budget, I would like to ask the subcommittee to focus your attention on the Defender Services line item. I cannot emphasize enough the need to fully fund the Defender Services line item, at the Court's mark. Presently, there is a

mere \$9 million difference in the two requests.<sup>1</sup> In order to provide adequate representation to families in crisis, we need to fully fund Defender Services. I said it last year, and it remains true for fiscal year 2005, all of this Committee's accomplished work on restructuring the Family Court is in jeopardy unless it has the resources to sustain it.

Please note that it is not the lawyers but the D.C. Court System itself who is asking for an increase in the hourly rate paid to attorneys that provide legal services to the indigent. Their request includes those attorneys that work hard to represent abused and neglected children in Family Court. The first fee increase in nearly a decade was implemented in March of 2002 when it was adjusted to the present rate of \$65 per hour. In the fiscal year 2004 request, the Courts recommend an incremental increase from the current \$65 an hour to \$75 per hour and eventually to \$90 per hour. They are again requesting the new rate this year.

This adjustment is important because the Federal Court's appointed lawyers, literally across the street, already get paid \$90 an hour to do very similar work. Therefore, the disparity in pay between the two systems creates a disincentive amongst the "experienced" attorneys to work for Defender Services in the D.C. Court. I call on this subcommittee to once again eliminate this disincentive by fully funding the requested increase in the Defender Services line item in the bill for fiscal year 2005, and then fight vigorously to defend that mark against adverse House action if a conference committee fight becomes necessary.

The Family Court is an institution that must protect the District's most vulnerable citizens—its children. Although the budget provides training for new attorneys, it is the experienced advocates who best serve these special clients. We are in danger of losing our most experienced child advocates due to budget cuts. A deficiency in funds to Defender Services will compromise the safety of children in the District of Columbia, so I am compelled to ask you to secure children's safety in the District of Columbia by fully funding Defender Services.

In closing, I wish to sincerely thank the subcommittee for holding this hearing. I know that this subcommittee has been firmly committed to meeting its fiduciary obligations regarding appropriations for the D.C. Courts. On behalf of my constituents, I thank you for all your hard work and dedication and I look forward to your continued cooperation. There has been strong bipartisan support in this subcommittee for our Court system. In particular, I commend Senators DeWine and Landrieu for all the great work that they have done on the important issue. Both of you have generally treated the D.C. Courts with the same consideration as if they were courts in your own States. Finally, let me thank Kendra Canape, Marco Berte and Brian Rauer of my staff, for their assistance in the preparation of this testimony.

Senator DEWINE. Judge King and Judge Wagner, thank you very much for joining us. And we welcome your opening statements.

Let me just announce to everyone: We have a vote on the Senate floor at 10:30. This committee will finish by 10:30 today one way or the other—so we will be able to do that. I am sure there is plenty of time for us to do our business here today.

Judge King.

Judge KING. If Judge Wagner would start?

Senator DEWINE. Oh, Judge Wagner, if you wish to start.

Judge WAGNER. Yes. Thank you.

#### STATEMENT OF JUDGE ANNICE M. WAGNER

Judge WAGNER. Good morning, Mr. Chairman and Senator Landrieu, subcommittee members.

Senator DEWINE. Good morning.

Judge WAGNER. I want to thank you for this opportunity to discuss the fiscal year 2005 budget request for the District of Columbia Courts. I am Annice Wagner, and I am appearing in my capacity as the Chair of the Joint Committee on Judicial Administration

<sup>1</sup> The President allotted \$134 million for Court Operations while the Courts requested \$151.15 million, a difference of \$17.15 million, and the President allotted \$93.4 million for Capital whereas the Courts requested \$120.93 million, a difference of \$27.53 million.

in the District of Columbia. Of course, Chief Judge Rufus King, III, of the Superior Court of the District of Columbia, is present and joins in this statement and will make a statement of his own.

My remarks this morning will summarize only and highlight our most critical priority, our capital budget request. I want to thank you for including in the record the detailed written statement we have submitted. I plan to focus my remarks on this critical capital requirement.

The District of Columbia Courts, as you know, serve approximately 10,000 members of the public each day. They handle more than 200,000 cases each year, and employ a staff of 1,200 who directly serve the public, process cases, and provide administrative support.

The D.C. Courts' capital funding requirements are significant because they include funding for projects critical to maintaining, preserving, and building safe and functional courthouse facilities essential to meeting the heavy demands of the administration of justice in our Nation's Capital. Of course, included in that is our Family Court, in which you both have been so interested in the past.

Just under a year ago, we appeared before the subcommittee to discuss our capital budget. We appreciate the support for our Master Plan for Facilities that you, Mr. Chairman, in particular, expressed at that time.

And we have taken your advice to heart, working very closely with the administration during its review of the Courts' capital budget request.

We are very gratified that the President has included in his budget recommendations the major components of our facilities renovation plans, particularly the restoration of the Old Courthouse for use by the Court of Appeals, which is the highest court in this jurisdiction. The restoration of this architectural jewel, the centerpiece of the historic Judiciary Square, will not only serve to address the Courts' space requirements, but it will also help to revitalize this important public area in our Nation's Capital.

Since the most recent study for the restoration of the Old Courthouse was completed in 1999, with the support of this subcommittee, we have been successful in mothballing the building, so to speak; that is, securing its roof and making it watertight, to prevent further deterioration.

Last year, we procured a nationally renowned architectural and engineering firm, Beyer Blinder Belle, to design the restoration. Representatives of that firm are with us today, Mr. John Belle and Mr. Hany Hassan. They are recognized as bringing sensitive solutions to complex urban problems requiring a delicate mix of appropriate historic restoration and bold inventive design, and have received as a result Presidential Design awards, this country's highest award for public architecture. They have worked on such things as the Grand Central Station and the Ellis Island restorations.

The design for the restoration of the Old Courthouse itself is now at the 50 percent complete stage. We will be ready to submit this design to the regulatory agencies next month, with the final design to be completed in August of this year.

We are scheduled to begin construction in January 2005 and plan to relocate the District of Columbia Court of Appeals to the



Old Courthouse when it is restored, and we expect that to occur in January 2007.

This relocation is a critical path of interdependent actions, which must occur in a complex sequence. That is, one thing must occur so that other parts of the Court can be accommodated, including the finalization of our Family Court with its own separate entrance on C Street.

Formal review and approval by the regulatory agencies of the Old Courthouse project must proceed expeditiously, as any delay will increase cost, contribute to further deterioration and delay implementation of the Courts' Master Plan for Facilities, including the Family Court.

As you may know, both the Commission of Fine Arts and the National Capital Planning Commission called for a coordinated design agreement between the Courts and the National Law Enforcement Museum, which is authorized to build an underground museum with above-ground entrance pavilions on part of the site.

At that time, it appeared that both projects were on similar construction schedules. Subsequently, however, we have learned that the museum construction may not commence until sometime between 2009 and 2012, up to 5 years after the completed Old Courthouse is scheduled to become the seat of the District of Columbia Court of Appeals.

But we are confident that our respective architects will eventually reach a design for the plaza entranceway which is agreeable to all parties. However, to address the area in the interim between construction projects, our architects have prepared a phase one design that completes the Old Courthouse restoration without infringing on the area authorized for the museum. Therefore, an agreement on plaza entranceway design should not delay the restoration and use of this important public building.

We recognize that coordination must continue with the museum and that some modifications to the site may be necessary.

Senator DEWINE. Judge, if you could conclude, please, if you could finish it.

Judge KING. Sir, I do not know if it's appropriate, but I would be happy to yield most of my time to Judge Wagner.

Senator DEWINE. That would be fine.

Judge WAGNER. Well, I have only a couple more statements to make.

Senator DEWINE. Sure.

Judge WAGNER. The principles of aesthetics, urban design, planning, and the enhancement of historical, cultural and natural resources will be best served by permitting the restoration of the historically and architecturally significant Old Courthouse.

#### PREPARED STATEMENT

Again, I thank you for your support of our facilities and plans and for this opportunity to discuss this very important issue in our capital budget.

And Chief Judge King and I, we will be happy to answer any questions.

[The statement follows:]

## PREPARED STATEMENT OF ANNICE M. WAGNER

Mister Chairman, Senator Landrieu, Subcommittee members, thank you for this opportunity to discuss the fiscal year 2005 budget request of the District of Columbia Courts. I am Annice Wagner, and I am appearing in my capacity as the Chair of the Joint Committee on Judicial Administration in the District of Columbia. I also serve as Chief Judge of the District of Columbia Court of Appeals. Chief Judge Rufus G. King, III, of the Superior Court of the District of Columbia is also present today and joins in this statement.

As you know, the Joint Committee is the policy-making body for the District of Columbia Courts. By statute, its responsibilities include, among others, general personnel policies, accounts and auditing, procurement and disbursement, management of information systems and reports, and submission of the Courts' annual budget request to the President and Congress. This jurisdiction has a two-tier system comprised of the D.C. Court of Appeals, our court of last resort, and the Superior Court of the District of Columbia, a trial court of general jurisdiction, which includes our Family Court. Administrative support functions for our Courts are provided by what has come to be known as the Court System.

My remarks this morning will summarize the request and highlight our most critical priority, our capital budget. With me this morning, along with Chief Judge King, are Ms. Anne Wicks, the Executive Officer for the Courts and Secretary to the Joint Committee and Mr. Joseph Sanchez, our Administrative Officer. We are prepared to answer questions you may wish to pose concerning the budget request for the Courts.

## INTRODUCTION

Unquestionably, we live in a changing environment, facing new challenges to our Nation, our Nation's capital, and our court system. Whatever challenges we face, the fair and effective administration of justice remains crucial to our way of life. The District of Columbia Courts are committed to meeting these new challenges. We have been steadfast in our mission, which is to protect rights and liberties, uphold and interpret the law, and resolve disputes peacefully, fairly and effectively in the Nation's Capital. Through our Strategic Plan, finalized in fiscal year 2003, the Courts strive to enhance the administration of justice; broaden access to justice and service to the public; promote competence, professionalism, and civility; improve court facilities and technology; and build trust and confidence. We appreciate the support that this Subcommittee has given us that makes possible the achievement of these goals for our community.

The Courts are committed to fiscal prudence and sound financial management. We are undergoing significant changes to meet the challenges of new technologies and are working to ensure that the courts of this jurisdiction have a sound infrastructure. Although we have requested funds for several important operating initiatives, the critical focus of our fiscal year 2005 budget request is our infrastructure.

To support our mission and strategic goals in fiscal year 2005, the D.C. Courts are requesting \$272,084,000 for Court operations and capital improvements and \$50,500,000 for the Defender Services account. The Federal Payment request includes: \$9,109,000 for the Court of Appeals; \$88,714,000 for the Superior Court; \$53,331,000 for the Court System; and \$120,930,000 for capital improvements for courthouse facilities.

The demands on the D.C. Courts require additional resources in fiscal year 2005. To build on past accomplishments and to support essential services to the public in the Nation's capital, investment in infrastructure, technology, and security are essential priorities. Only by investing in these areas will the Courts be in a position to ensure that our facilities are in a safe and healthy condition and reasonably up-to-date, that our information technology is capable of meeting today's demands; and that the type of security necessary to protect our citizens and our institution is in place. Focus on these capital areas is particularly critical now to meet each of these needs and to ensure that the quality of justice is not compromised.

The Courts' fiscal year 2005 request is a fiscally responsible budget that continues to build on our achievements. We are particularly proud of our progress with a number of recent initiatives. These include:

- completion of the D.C. Courts' first Master Plan for Facilities that evaluates the Courts' space needs and provides a blueprint for space utilization, both short-term and long-term;
- submission of a draft Master Plan for Judiciary Square to the National Capital Planning Commission, providing a plan for revitalization and urban renewal of this historic area where the Courts are located that dates to the original L'Enfant Plan for the Nation's Capital;

- implementation of the District of Columbia Family Court Act of Fiscal Year 2001; to date, the Courts have implemented the one family one judge principle and transferred all required children's cases to Family Court judges, created attorney panels and practice standards for neglect and juvenile cases, established a Family Treatment Court, piloted a Self-Help Center for litigants with assistance from the bar, increased resources devoted to family matters with the addition of nine magistrate judges and three Family Court Judges, and opened the Mayor's Services Liaison Center in the courthouse;
- completion and initial implementation of the Courts' 5-year strategic plan, "Committed to Justice in the Nation's Capital," following 9 months of extensive input from the public, practicing attorneys and other stakeholders, detailed analysis of community trends, and significant work by the Courts' Strategic Planning Leadership Council;
- implementation of the Integrated Justice Information System (IJIS) in Family Court substantially completed in 2003;
- creation of community-based courts, such as the criminal Community Court and prostitution calendar, that seek to improve the quality of community life by reducing nuisance crimes through community-based sanctions and treatment and social services to solve the underlying problems leading to the unlawful behavior; and
- opening the Domestic Violence Satellite Center in Southeast, in cooperation with community-based advocacy groups and District agencies, to facilitate protection orders and services for large number of domestic violence victims who reside east of the Anacostia river.

#### CRITICAL FISCAL YEAR 2005 PRIORITY—INFRASTRUCTURE

The District of Columbia Courts serve approximately 10,000 courthouse visitors each day, handle more than 200,000 cases each year, and employ a staff of 1,200 who directly serve the public, process the cases, and provide administrative support. The District of Columbia Courts are among the busiest and most productive court systems in the United States.<sup>1</sup> For example, the Superior Court of the District of Columbia has the second highest number of cases filed per judge, and the highest number of civil and criminal case filings per capita of all unified State courts in the Nation. Our Court of Appeals has the highest number of appeals filed per capita among all States with a similar court structure.

The D.C. Courts' capital funding requirements are significant because they include funding for projects critical to maintaining, preserving, and building safe and functional courthouse facilities essential to meeting the heavy demands of the administration of justice in our Nation's Capital. To effectively meet these demands, the Courts' facilities must be both functional and symbolic of their public significance and character. In the 2005 capital budget, the Courts highest budgetary priority seeks to comprehensively address these issues.

In preparing the fiscal year 2005 capital budget request, the Courts carefully assessed the capital requirements essential to performing our statutory and constitutionally mandated functions. The Courts' request for capital funding is particularly critical in fiscal year 2005 because of the need to (1) address essential public health and safety conditions in our extremely busy court buildings; (2) meet the courts' space shortage requirements for conducting business, which includes our new Family Court, recently established by Congress; and (3) avoid interruption of ongoing projects, as that typically results in substantially increased costs.<sup>2</sup> Significantly increased space needs for court operations and inadequate capital funding in prior years that necessitated maintenance deferral compel the Courts' significant capital request for fiscal year 2005.

The Courts presently maintain 1.1 million gross square feet of space in Judiciary Square. The Courts are responsible for four buildings in the square: the Old Courthouse at 451 Indiana Avenue, the Moultrie Courthouse at 500 Indiana Avenue, N.W., and Buildings A and B, which are located between 4th and 5th Streets and E and F Streets, N.W. In addition, when the District government's payroll office vacates Building C, the old Juvenile Court, we anticipate that it will be returned to the Courts' inventory. Recent studies by the General Services Administration (GSA)

<sup>1</sup>See "Examining the Work of State Courts 2002: A National Perspective from the Court Statistics Project", by B. Ostrom, N. Kauder, & R. LaFountain (National Center for State Courts 2003).

<sup>2</sup>For example, in the last decade, the estimated cost for restoring the Old Courthouse has more than tripled.

have documented both the D.C. Courts' severe space shortage<sup>3</sup> and the inadequacy of the physical condition of the Courts' facilities.<sup>4</sup>

The recently completed Master Plan for D.C. Courts Facilities, secured by the General Services Administration (GSA), defined a present shortfall of 48,000 square feet of space, with a shortfall of 134,000 square feet projected in the next decade. GSA proposed to meet the Courts' space needs through three mechanisms: (1) renovation of the Old Courthouse for use by this jurisdiction's court of last resort, the District of Columbia Court of Appeals, which will free critically needed space in the Moultrie Courthouse for trial court operations; (2) construction of an addition to the Moultrie Courthouse, a major portion of which will be developed as a separately accessible Family Court facility; and (3) the future occupation of Building C, adjacent to the Old Courthouse.

The restoration of the Old Courthouse for use by the District of Columbia Court of Appeals is pivotal to meeting the space needs of the entire court system. We are very pleased that the President has recognized the importance of this project by supporting it in his budget recommendation. Investment in the restoration of the Old Courthouse not only will improve efficiencies by co-locating the Court of Appeals with all related support offices, but also will provide 37,000 square feet of space critically needed in the Moultrie Courthouse for Superior Court and Family Court functions. The Moultrie Courthouse is uniquely designed to meet the needs of a busy trial court. It has three separate and secure circulation systems—for judges, the public, and the large number of prisoners present in the courthouse each day. The Moultrie Courthouse was completed in 1978 for the District of Columbia Court of Appeals and a 44 judge trial court, the Superior Court. Today it is strained beyond capacity to accommodate 62 associate judges and 24 magistrate judges in the trial court, as well as senior judges and support staff for the two courts. Essential criminal justice and social service agencies also occupy office space in the Moultrie Courthouse. The Courts have clearly outgrown the space available in the Moultrie Courthouse. The space is inadequate for this high volume court system to serve the public in the heavily populated metropolitan area in and around our Nation's Capital. The Courts require well-planned and adequate space to ensure efficient operations in a safe and healthy environment.

#### HISTORIC JUDICIARY SQUARE

The historical and architectural significance of Judiciary Square lend dignity to the important business conducted by the Courts and, at the same time, complicate somewhat efforts to upgrade or alter the structures within the square. As one of the original and remaining historic green spaces identified in Pierre L'Enfant's plan for the capital of a new nation, Judiciary Square is of keen interest to the Nation's Capital.

The Old Courthouse, the centerpiece of the historic Judiciary Square, built from 1821 to 1881, is one of the oldest buildings in the District of Columbia. Inside the Old Courthouse, Daniel Webster and Francis Scott Key practiced law, and John Surratt was tried for his part in the assassination of President Abraham Lincoln. The architectural and historical significance of the Old Courthouse led to its listing on the National Register of Historic Places and its designation as an official project of Save America's Treasures. The unique character of the building, together with its compact size, makes it ideal for occupancy by the highest court of the District of Columbia. At the same time, the structure is uninhabitable in its current condition and requires extensive work to meet health and safety building codes and to readapt it for use as a courthouse. Since it has been vacated, and with the support of Congress, the Courts have been able to take steps to prevent its further deterioration. The restoration of the Old Courthouse for use as a functioning court building will not only provide much needed space for the Courts, but it will also impart new life to one of the most significant historic buildings and precincts in Washington, DC. It will meet the needs of the Courts and benefit the community through an approach that strengthens a public institution, restores a historic landmark, and stimulates neighborhood economic activity.

Buildings A, B, and C, dating from the 1930's, are situated symmetrically along the view corridor comprised of the National Building Museum, the Old Courthouse, and John Marshall Park and form part of the historic, formal composition of Judiciary Square. These buildings have been used primarily as office space in recent years, with a number of courtrooms in operation in Building A. The Superior Court's two highest volume courtrooms, Small Claims and Landlord and Tenant, moved into

<sup>3</sup>Master Plan for D.C. Courts Facilities, 2002.

<sup>4</sup>Building Evaluation Report, 2001.

Building B in November 2003. This move has freed space in the Moultrie Building needed immediately for the Family Court, permitting the construction, scheduled to be complete in July of this year, of three new courtrooms, three new hearing rooms, a centralized case intake facility, a family-friendly waiting area, a separate courthouse entrance, and District government liaison offices for family matters.

The H. Carl Moultrie I Courthouse, built in the 1970's, while not historic, is also located along the view corridor and reinforces the symmetry of Judiciary Square through its similar form and material to the municipal building located across the John Marshall Plaza. Currently the Moultrie Courthouse provides space for most Court of Appeals, Superior Court, and Family Court operations and clerk's offices, as previously described.

#### JUDICIARY SQUARE MASTER PLAN

The National Capital Planning Commission (NCPC) required that the D.C. Courts develop a Master Plan for Judiciary Square—essentially an urban design plan—before any construction could be commenced in the area. The D.C. Courts have worked with all stakeholders on the Plan, including the United States Court of Appeals for the Armed Forces, the National Law Enforcement Officers Memorial Fund (Memorial Fund), the Newseum, and the Metropolitan Police Department. A draft Judiciary Square Master Plan was submitted to the NCPC in June 2003 and subsequently approved in August 2003. We plan to submit the finalized Judiciary Square Master Plan next month, in March 2004.

The Judiciary Square Master Plan integrates the facilities development program of the Courts into a rapidly changing and publicly oriented area of the District. The Plan resolves important technical issues related to access, service, circulation, and security while re-establishing the importance of this historic setting in the "City of Washington." It provides a comprehensive framework for project implementation and lays the groundwork for the regulatory approval process with the National Capital Planning Commission, the U.S. Commission of Fine Arts, the District of Columbia Office of Historic Preservation, the District of Columbia Office of Planning, and the District of Columbia Department of Transportation, among others.

The Judiciary Square Master Plan recommends (1) re-introduction of landscaped green space around court buildings and the construction of secure underground parking garages for the Courts' vehicles now parked in surface lots; (2) integration of a new service area, security features and landscape concept; and (3) coordination of the Courts' development with development of the National Law Enforcement Officers Museum by the Memorial Fund.

The Judiciary Square Master Plan will ensure the preservation of one of the last original green spaces in the District of Columbia awaiting revitalization, incorporating areas where the public can gather and creating a campus-like environment where citizens can feel safe and secure. The Judiciary Square Master Plan will be of great benefit to the City of Washington.

#### MASTER PLAN FOR FACILITIES

The Courts have been working with GSA on a number of our capital projects since fiscal year 1999, when the Courts assumed responsibility for our capital budget from the District's Department of Public Works. In 1999, GSA produced a pre-design study for the renovation of the Old Courthouse to house the D.C. Court of Appeals. In 2001, GSA prepared Building Evaluation Reports that assessed the condition of the D.C. Courts' facilities, which have been adversely affected by maintenance deferrals necessitated by severely limited capital funds in prior years. These projects culminated in the development of the first Master Plan for D.C. Court Facilities, which delineates the Courts' space requirements and provides a blueprint for optimal space utilization, both in the near and long term.

The Master Plan for D.C. Court Facilities, completed in December 2002, incorporates significant research, analysis, and planning by experts in architecture, urban design, and planning. During this study, GSA analyzed the Courts' current and future space requirements, particularly in light of the significantly increased space needs of the Family Court. The Master Plan examined such issues as alignment of court components to meet evolving operational needs and enhance efficiency; the impact of the D.C. Family Court Act of 2001 (Public Law Number 107-114); accommodation of space requirements through 2012; and planning to upgrade facilities, including, for example, security, telecommunications, and mechanical systems. The Plan identified a space shortfall for the Courts over the next decade of 134,000 occupiable square feet, and, as noted above, proposed to meet that need through renovation of the Old Courthouse for use by the D.C. Court of Appeals; construction of an addition to the Moultrie Courthouse; and reoccupation of Building

C, adjacent to the Old Courthouse. In addition, the Plan determined that other court facilities must be modernized and upgraded to meet health and safety standards and to function with greater efficiency.

#### FAMILY COURT IN THE MASTER PLAN

##### *Interim Family Court Space Plan*

The Master Plan concluded that the Family Court would be most effectively and efficiently located in the Moultrie Courthouse. The Master Plan incorporates an interim space plan that provides the facilities necessary to fully implement the Family Court Act, as well as a long term plan that optimizes space and programmatic enhancements for family matters. The interim space plan for Family Court will be complete in the summer of 2004, and fully consolidates public functions on the JM level of the Moultrie Courthouse. As this interim space plan proceeds towards completion, procedural changes have been implemented within the Family Court that meet the requirements of the Family Court Act. Essential capital components of the plan are straightforward:

- During fiscal year 2002, the Courts constructed and reconfigured space in the Moultrie Courthouse to accommodate nine new Family Court magistrate judges and their support staff. The Courts also constructed four new hearing rooms in Building B for Family Court magistrate judges hearing child abuse and neglect cases and renovated short-term space for the Mayor's Services Liaison Office.
- Two Superior Court operations formerly located on the JM level of the Moultrie Courthouse, Small Claims and Landlord and Tenant, were relocated in November 2003 to Building B to free space for the Family Court.
- Construction on the JM Level of the Moultrie Courthouse began in December 2003 and will provide three new courtrooms, three new hearing rooms, the Mayor's Services Liaison Office, a Centralized Family Court Case Filing and Intake Center, a family-friendly child waiting area, and a new Family Court entrance from the John Marshall Plaza into the Moultrie Courthouse. In addition, the corridors and hallways along the courthouse's JM-level will be redesigned to create family-friendly seating and waiting areas. This work will be complete during the summer of 2004.

##### *Long Term Family Court Space Plan*

The long-term plan to optimize space and provide programmatic enhancements for the Family Court includes expansion of the Moultrie Courthouse. The Courts are pleased that the President's 2005 budget provides funding for the design work for the Moultrie Courthouse expansion. Once complete, it will provide a state-of-the-art, family-friendly facility for Family Court operations, with its own identity and separate entrance, which will be a model for the Nation. The plan envisions a safe facility that will be inviting and welcoming to families with children of all ages and that will incorporate a "one-stop" concept by locating all related court units in one place and making it easier for families to access needed social services from D.C. government agencies. The interim Family Court plan was designed to transition smoothly into this long-term plan and to maximize the efficient use of time and money.

The Master Plan studied the cost and feasibility of expanding the Moultrie Courthouse in the Feasibility Study for the H. Carl Moultrie I Courthouse—May 2003. This approach has been developed with the overarching objectives of keeping the court system continually operating efficiently, while carefully complying with the Family Court Act. Independent projects related to the Family Court Act include the renovation and expansion of the Old Courthouse to free space in the Moultrie Courthouse, system upgrades and renovation of Buildings A & B, occupation and renovation of Building C, leasing of space for functions not directly related to the public and court proceedings, and renovation and expansion of the Moultrie Courthouse. These projects will shift operations currently located in existing Court facilities (1) to create "swing space" that permits the required construction to take place in an operating courthouse that receives 10,000 members of the public daily and (2) to make contiguous space available for all related Family Court functions.

#### THE COURTS' STRATEGIC PLAN

The capital projects included in this request are an integral part of the Courts' Strategic Plan, completed in 2002. The Strategic Plan of the D.C. Courts, entitled "Committed to Justice in the Nation's Capital", articulates the mission, vision, and values of the Courts in light of current initiatives, recent trends, and future challenges. It addresses issues such as implementation of a Family Court, increasing cultural diversity, economic disparity, complex social problems of court-involved individuals, the increasing presence of litigants without legal representation, rapidly

evolving technology, the competitive funding environment, emphasis of public accountability, competition for skilled personnel, and increased security risks.

Improved facilities were a need identified as a high priority among all constituency groups surveyed by the Courts as the Strategic Plan was developed. "Improving Court Facilities and Technology" is the Plan's Strategic Issue 4. The Strategic Plan states:

"The effective administration of justice requires an appropriate physical and technical environment. Court personnel and the public deserve facilities that are safe, comfortable, secure, and functional, and that meet the needs of those who use them. Technology must support the achievement of the Courts' mission."

Two strategic goals relate to the facilities and technology enhancements in this capital budget:

"Goal 4.1: The Courts will provide personnel and court participants with a safe, secure, functional and habitable physical environment.

"Goal 4.2: The Courts will provide technology that supports efficient and effective case processing, court management, and judicial decision-making."

The fiscal year 2005 capital budget request will help the D.C. Courts attain these goals.

#### CAPITAL FUNDING IN FISCAL YEAR 2005

To permit the Courts to continue to meet the needs of the community and the demands confronting the District's judicial branch, adequate resources are essential. The most critical issue we face today is sufficient capital funding to address the Courts' severe space shortage and aging infrastructure. Investment in these areas is critical to enable the Courts to provide to the public and our employees facilities that are safe, healthy, and reasonably up-to-date and to provide the type of security necessary to protect our citizens and our institution. Unless infrastructure needs are addressed, the functional capability of the Courts will decline and the quality of justice in the District of Columbia will be compromised.

The first part of the Capital Budget request identifies projects to renovate, improve, and expand court facilities, as specified in the Master Plan for Facilities. The request is a comprehensive, 5-year plan, with projects divided into phases to the extent practicable: \$63 million is requested for the construction phase of the Old Courthouse renovation, which will begin in fiscal year 2005; \$13.9 million is requested for the design phase of the Juvenile Holding area renovation, C Street Expansion, and Renovation and Reorganization portions of the Moultrie Courthouse Renovation and Expansion project in fiscal year 2005. For design and pre-design work to renovate Buildings A and C and for phase 1 construction in Building A, \$4.9 million is requested. We are very pleased that the President has supported these essential elements of our Master Plan in his fiscal year 2005 budget recommendations. In addition, to design and prepare signage and security lighting to guide the public through the court complex, which will become increasingly important as court operations move out of the Moultrie Courthouse, \$2 million is requested.

The second part of the Capital Budget request addresses the condition of the Courts' existing infrastructure, including projects necessary for the health and safety of the public in the courthouse and including the Integrated Justice Information System (IJIS). To meet these needs, the Courts make the following requests: \$6 million for fire and security systems, as recommended by GSA and U.S. Marshal Service studies; \$15 million for HVAC, Electrical and Plumbing Upgrades to remediate lead-contaminated drinking fountains, provide adequate ventilation, and meet electrical load needs, among other things; \$1.1 million to renovate dilapidated restrooms used by the public and court staff; \$2.6 million for, among other things, ADA accessibility, safety repairs, and refurbishment of run-down areas in courtrooms and secure areas. To replace prisoner elevators, alleviating trial delays because of inability to transport incarcerated persons, \$0.2 million is requested. To improve safety and ADA accessibility in public areas, to clean the exterior of the Courts' buildings, to replace doors and windows in historic Buildings A and B, and to make other general repairs, \$9 million is requested. Finally, \$2.83 million is requested for continued implementation of IJIS. While we are pleased that some of these projects, such as IJIS, elevators and escalators, and general repairs, have been supported, we remain concerned that continued deferral of needed maintenance projects will increase costs by delaying major work and by forcing inefficient repairs of equipment that has reached its expected life and requires major overhaul.

The capital projects identified are critical to the Courts' ability to meet the current and future needs of the District of Columbia Courts. Approval of the requested

capital funding in fiscal year 2005 offers important advantages including: (1) addressing urgent public health and safety conditions in the Court's busy buildings; (2) allowing ongoing projects to continue without interruption, thereby avoiding increased costs occasioned by delays; (2) and meeting the Courts' critical space requirements, including our new Family Court.

#### STATUS OF KEY CAPITAL PROJECTS

##### *Old Courthouse Restoration*

The D.C. Courts' numerous facilities renovation projects have converging critical scheduling paths. The Old Courthouse project is the first step in a series of interdependent moves that must progress in sequence to provide space and make way for the next step in the Courts' Master Plan. Since the pre-design study for the restoration was completed in 1999, the Courts have, with the support of Congress, taken steps to preserve the building, including making watertight the roof, and mothballing the building. Design of the Old Courthouse restoration began April 30, 2003 with the selection, from among nearly 30 bids in the General Services Administration procurement process, of Beyer Blinder Belle Architects and Planners LLP (BBB). BBB is a nationally renowned architectural and engineering firm whose historic preservation and renovation projects have included Grand Central Station, Ellis Island, and the U.S. Capitol. BBB has nearly completed the design for the first phase of the restoration, the parking garage to be shared by the U.S. Court of Appeals for the Armed Forces, and its construction is scheduled to commence later this year.

The Commission of Fine Arts reviewed the preliminary concept design for the Old Courthouse on October 16, 2003. The Commission's recommendations were incorporated in the design, which is currently 50 percent complete. Upon completion of this milestone, formal review by regulatory agencies (e.g., the Commission of Fine Arts (CFA) and the National Capital Planning Commission (NCPC)) is required for the project to proceed. The Courts are prepared to present the 50 percent complete design to the NCPC in March 2004. Formal review and approval of the Old Courthouse project must proceed expeditiously, as any delay will increase cost, contribute to further deterioration, and delay implementation of the Courts' Master Plan for Facilities, including enhancement to and the full consolidation of all Family Court related elements.

Both the CFA and the NCPC called for a coordinated design or agreement between the Courts and the National Law Enforcement Museum (NLEM), which is authorized to build an underground museum with aboveground entrance pavilions on part of the site. At that time, it appeared that both projects were on similar construction schedules. Subsequently, we have learned that the NLEM construction may not commence until sometime between 2009 and 2012. The Old Courthouse construction is scheduled to commence in January 2005 with occupancy scheduled for January 2007.

Our architects have prepared a "Phase 1" design that completes the Old Courthouse restoration without infringing on the area authorized by legislation for the museum. Therefore, an agreement on plaza entranceway design should not delay the restoration and use of this important public building. We recognize that coordination with the NLEM must continue, and that some modifications to the site may be necessary. However, the principles of aesthetics, urban design, planning, and the enhancement of historical, cultural and natural resources, which the CFA and NCPC must foster, will best be served by permitting the restoration of the historically and architecturally significant Old Courthouse to proceed.

##### *Moultrie Courthouse Expansion*

The expansion of the Moultrie Courthouse is a key element in the long-term plan for Family Court. The expansion builds on the interim plan for the Family Court, scheduled to be complete the summer, that will consolidate the public face of the Family Court through a centralized intake center and space for the Mayor's Services Liaison Office and provide a separate entrance as well as new courtrooms, hearing rooms, and a family-friendly child waiting area. The expansion will complete the facilities enhancements for the Family Court providing, for example, additional space for child protection mediation, increased Child Care Center space, and safe and comfortable family waiting areas. It will also fully consolidate all administrative operations of the Family Court including relocation of juvenile probation (the Social Services Division) from Building B to the Moultrie Courthouse. A portion of the addition will meet critical space needs for other Superior Court operations. The Courts have requested, and the President supports, funds in fiscal year 2005 to design the addition. The addition is scheduled to be completed in 2009.



## COMPLETE BUDGET REQUEST SUMMARY

To provide the highest level of justice to the public in the Nation's Capital and build on recent accomplishments, it is essential that the D.C. Courts receive additional resources in fiscal year 2005. The demands on the Courts require significant capital investments in facility infrastructure, security, and technology as well as operational investments to enhance the administration of justice and service to the public. Without additional capital resources, the Moultrie Courthouse and the District's historic Old Courthouse and Buildings A and B will continue to deteriorate, placing public health and safety at risk and undermining public trust and confidence in the judicial branch; the Courts' information technology will fail, threatening judicial decision-making and community safety; and needed security measures and equipment will not be installed, placing the Courts' buildings and the public at risk. Investments in operational enhancements will support strategic management; self-representation services; complete and accurate trial records; financial, materiel, and facilities management; and human resource development. Targeted investments in these critical areas are essential to ensuring that the Courts can fulfill their mission of providing quality justice in the District of Columbia. The Court's fiscal year 2005 budget request addresses these requirements by:

—*Investing in Infrastructure.*—The fiscal year 2005 capital request reflects significant study and planning detailed in the D.C. Courts' Master Plan for Facilities. As noted above, today the Courts have a space shortfall of nearly 45,000 occupiable square feet, which is projected to rise to a 134,000 square feet shortfall over the next 10 years. To begin to address the Courts' space needs and ensure the health, safety, and quality of court facilities, the fiscal year 2005 capital request includes \$120,930,000.

Included in the capital budget request is \$63,000,000 for the construction phase of the Old Courthouse restoration project, which will adapt it for reuse by the Court of Appeals. The Old Courthouse is an architectural jewel located in one of the significant green areas of the District original to the L'Enfant Plan for the capital city. Construction of the accompanying garage, which will be shared with the U.S. Court of Appeals for the Armed Forces, and remove surface parking, will begin during 2004. Restoring this historic landmark to meet the urgent space needs of the Courts and preserving it for future generations are critical priorities for the District of Columbia Courts.

Also included in the capital budget request is \$13,900,000 to begin work on the Moultrie Courthouse expansion, as delineated in the Master Plan. This amount includes \$6,000,000 for the design phase of the C Street Expansion, which, as noted above, will complete the facilities enhancements for the Family Court and meet critical space needs for Superior Court operations. The total also includes \$3,900,000 to renovate and expand space in the Moultrie Courthouse for the juvenile holding area and \$4,000,000 for the first phase of the renovation and reorganization of the Moultrie Courthouse, to make optimal use of existing space as envisioned in the Master Plan.

In addition, the capital budget request includes \$34,300,000 to maintain the Courts' existing infrastructure, preserving the health and safety of courthouse facilities for the public and the integrity of historic buildings for the community.

—*Enhancing Public Security.*—The Courts are responsible for the protection of 10,000 members of the public who enter the courthouse each day, among them local and international visitors and 1,200 court employees. To meet the increased security threat post-September 11, 2001, the Courts request \$6,956,000. Included in this figure are: \$956,000 in operational expenditures for additional contractual security officers and \$6,000,000 to finance capital security improvements recommended by a U.S. Marshal Service Physical Security Survey and a GSA Preliminary Engineering Report, including design, construction, and installation of a new security system, as well as additional security cameras, duress alarms and upgrades.

—*Investing in Information Technology (IT).*—The Courts are mandated to operate an automated, integrated case management system to provide accurate, comprehensive case data across every operating area and appropriate case data to the judiciary, the District's child welfare and criminal justice communities, and the public. To meet this mandate and achieve the Courts' strategic goal of improving court technology, the Courts request \$6,729,000 and 6 FTEs in fiscal year 2005. This amount includes \$3,899,000 in the operating budget for infrastructure enhancements, upgrade of IT operations and implementation of the disciplined processes the General Accounting Office (GAO) had recommended for the Integrated Justice Information System (IJIS) project. In addition, the Courts' capital budget request includes \$2,830,000 to finance fiscal year 2005

procurement of IJIS, which the Court launched in fiscal year 1999. Implementation of IJIS is well underway, with Wave 1 of the Family Court module operational in August 2003 and Wave 2 operational in December 2003.

- Strategic Planning and Management.*—To support long-range strategic planning and management, including the development and assessment of organizational performance measures, \$571,000 is requested. A comprehensive performance measurement system is a critical element in accountability to the public and would enable the Courts to report performance to the community. In addition, an Office of Strategic Management is essential to make the Courts' strategic plan the dynamic, evolving document that it must be to focus resources, priorities and actions. Specifically, the request would finance performance management software, training, and knowledgeable staff with the expertise to institutionalize a proactive, coordinated approach to management including the establishment, analysis, and use of performance measures for strategic decision-making.
- Serving the Self-Represented.*—To enhance equal access to justice for the more than 50,000 litigants without lawyers who come to the D.C. Courts each year, especially in the Family Court, Civil Division, and Court of Appeals, \$2,096,000 and 13 FTEs are requested for staff and facilities to establish a Self-Representation Service Center. This amount includes \$212,000 and 3 FTEs to assume responsibility for the operation, on a full-time basis, of the award-winning Family Court Self-Help Center, which is currently only a part-time operation supported by volunteers from the D.C. Bar. The Courts would adopt best practices in assisting the unrepresented with numerous important legal issues and build on the public information kiosk project being implemented in fiscal year 2003 and the very limited pro bono services currently available.
- Investing to Ensure Accurate and Complete Trial Records.*—The Courts' fiscal year 2005 request includes \$1,636,000 and 12 FTEs to improve the production of the court record. Maintaining complete and accurate court records are central to the fair administration of justice in a court system. Accurate and complete records of court proceedings are critical to ensuring a fair trial and to preserving a record for appeal. This request includes funds to upgrade the Courts' digital recording system that is installed in 80 courtrooms and has exceeded its useful life, and funds to hire additional court reporters who are essential for certain types of proceedings, such as felony trials.
- Enhanced and More Timely Public Service.*—To enhance and provide more timely services to the public, the Courts' fiscal year 2005 request includes \$2,198,000 and 15 FTEs to support operating division initiatives in family, landlord and tenant, probate, crime victim's compensation, the juror's office, court interpreting services, and the Superior Court law library. Included in the total is \$1,000,000 to restore and preserve Probate Division records that are required, by statute, to be maintained forever and readily available to the public. This funding will build on the Courts' recent accomplishments, discussed above, and ensure that the highest quality services are provided.
- Financial, Materiel, and Facilities Management.*—To enhance financial, materiel, and facilities management, \$2,267,000 and 17 FTEs are requested. Included in the total are \$623,000 and 8 FTEs to enhance financial and program management, including a new internal audit team; \$898,000 and 1 FTE for materiel management, including warehouse space, equipment, and staff; and \$746,000 and 8 FTEs to enhance facilities management, including building engineers and capital project management staff.
- Investing in Human Resources.*—To help the Courts attract, develop, and retain highly qualified employees and address the risks of high retirement eligibility, \$1,167,000 is requested for succession planning, leadership development, tuition assistance, enhanced benefits and specialized training for court personnel. Currently, 27 percent of the Courts' non-judicial employees, of whom 16 percent are in top management positions, are eligible to retire in the next 5 years, representing a potential for a tremendous loss of experience and talent that the Courts must plan now to address.
- Strengthening Defender Services.*—In recent years, the Courts have devoted particular attention to improving the financial management and reforming the administration of the Defender Services programs. For example, the Courts have significantly revised the Criminal Justice Act (CJA) Plan for representation of indigent defendants and issued Administrative Orders to ensure that CJA claims are accompanied by adequate documentation and that only highly qualified attorneys participate in the program. To enhance the financial management of the CJA program, the Courts assumed responsibility for issuing attorney claim vouchers from the Public Defender Service (PDS). Consolidation of re-

sponsibility for all financial management aspects of the Defender Services programs will enable the Courts to estimate more accurately program obligations throughout the voucher processing cycle. To build on these initiatives and more comprehensively exert greater management control over the Defender Services appropriation from a programmatic, rather than a financial perspective, the Courts request \$91,000 and 1 FTE in the fiscal year 2005 operating budget.

In the Defender Services account, the fiscal year 2005 budget request represents a net increase of \$18,500,000 over the fiscal year 2004 Enacted level of \$32,000,000 to fund hourly rate increases. Of the total request, \$9,500,000 would provide appropriated funding for the March 2002 rate increase for Defender Services attorneys and investigators. This increase, enacted in the D.C. Appropriations Act, 2002, has been funded to-date through a reserve in the account, which is now depleted. Also included in the total request is \$9,000,000 for an increase in the hourly compensation rates for attorneys from \$65 to \$90, to keep pace with the rate paid court-appointed attorneys at the Federal courthouse across the street from the D.C. Courts.

#### CONCLUSION

Mister Chairman, Senator Landrieu, Subcommittee members, the District of Columbia Courts have long enjoyed a national reputation for excellence. We are proud of the Courts' record of administering justice in a fair, accessible, and cost-efficient manner. Adequate funding for the Courts' fiscal year 2005 priorities is critical to our success, both in the next year and as we implement plans to continue to provide high quality service to the community in the future. We appreciate the President's level of support for the Courts' funding needs in 2005, and the support we have received from the Congress. We look forward to working with you throughout the appropriations process, and we thank you for this opportunity to discuss the fiscal year 2005 budget request of the Courts.

Senator DEWINE. Thank you.

Judge WAGNER. Thank you, sir.

Senator DEWINE. Judge King.

#### STATEMENT OF JUDGE RUFUS G. KING, III

Judge KING. Good morning, Mr. Chairman and Senator Landrieu. It is a pleasure to be back here and primarily to express my gratitude on behalf of the Superior Court, at any rate, for your support for our budget in the past and the President's support for our budget as we go forward with the construction plan.

We are engaged in the execution of a complex master plan that runs over 10 years. We have outlined that in our written submission, which I trust will be included in the record.

Senator DEWINE. It will be made a part of the record.

Judge KING. I adopt Chief Judge Wagner's oral statement as well, and I will just make a point or two.

Thus far, the construction in the Moultrie Building to round out the first part of the Family Court renovations is on time and in budget. My commitment is to try to keep it that way. And to that end, my door is always open and my phone lines are always open for any discussions that are needed to help that process along.

The one point that I just want to put on the record, because I know it is capable of getting lost in the shuffle is: The President did not support our request for capital funding for the aging infrastructure. Our building is 30 years old, essentially. The systems, the HVAC and mechanical systems and electrical and so on, are all at the end of their useful life.

I personally have had an occasion when the temperature in my courtroom rose to above 90 degrees, because the air conditioning had failed. We just had to adjourn for the day. And that is very frustrating when you have a judge ready to go, staff ready to go,

marshals ready to go, and the lawyers are prepared to try the case, and you just cannot try the case. So that is an issue that is over the horizon.

There is a \$15 million request for aging infrastructure, renovation and maintenance that has not been addressed. And at some point, it is going to need to be addressed.

But I am very grateful for the support for the capital budget. And I will be glad to answer questions.

Senator DEWINE. Good.

Judge KING. Thank you.

Senator DEWINE. Senator Landrieu.

Senator LANDRIEU. Could you all just, Judge, just hit—would you just hit the highlights again of the—I know you have given us the time frame in the documents here. But just review for me on this plan that you have, when the Courts move into what building, so that I could just get a sense of when the Family Court will be in their new facility? What is the general time line, if you have it handy? If you do not, I understand.

#### COURT CONSTRUCTION SCHEDULE

Judge WAGNER. I do not have it handy, but I can—let me see.

Judge KING. I can give you most of the basic points. The Family Court will be moved—all of the public functions of the Family Court will be moved into the JM and first floor levels of the Moultrie Courthouse as of July of this year, in about 5 months, 6 or 5 months.

I believe the move for the Court of Appeals is scheduled for 2005. The actual occupancy is a little bit later, but the construction starts in 2005. When that move is accomplished in 2007, we will then round out the relocation of various functions to bring all of the office or administrative functions of the Family Court into the JM and the first floors.

Senator LANDRIEU. So I am understanding that the Family Court basically moves first into their renovated space. They are moving first into their renovated space.

Judge KING. That is correct.

Senator LANDRIEU. Is that correct?

Judge KING. That is correct.

Senator LANDRIEU. And then the next piece is the——

Judge KING. The C Street Expansion——

Senator LANDRIEU [continuing]. Renovation.

Judge KING [continuing]. Which will begin in 2006.

The C Street Expansion is finished in 2009. We are running with design phases while we are doing the building of the Old Courthouse and then——

Senator LANDRIEU. You all have—you are in the position to have control of this schedule so that—because they are really moving pieces. And those pieces have to move in a way that really helps us to meet these time lines to get these Courts functioning in the new spaces that we are trying to provide. And you all know that any barriers to move people or the authority to make the contractors even move faster or get out of the way or the architects—I mean, do you all feel like you have blue skies ahead, or do you

need us to do anything that helps you to make sure you stay on the schedule?

Judge KING. The one thing that we have almost no control over is the funding, and we are looking to you for that, and you have been very supportive. But given the funding, we have more barriers to—

Senator LANDRIEU. But if the funding, you know, is short, then it puts a crimp in this particular formula.

Judge KING. That is correct. That is correct.

Senator LANDRIEU. Okay.

Judge KING. If the funding is not there, then we have to come up with alternatives.

Senator LANDRIEU. All right.

Judge WAGNER. And the Courts' plans have to be approved by the regulatory agencies during this process. While we do not control that, we try to cooperate with them to get all of our submissions in so that we cause no delays.

Senator LANDRIEU. Thank you.

Senator DEWINE. Let me invite our other panelists to come up.

Craig Floyd is the Chairman and Executive Director of the National Law Enforcement Officers Memorial Fund. Patricia Gallagher is the Executive Director of the National Capital Planning Commission. And Frederick Lindstrom is the Assistant Secretary of the Commission of Fine Arts since 2001.

Ms. Gallagher, let us start with you. If you can—we have everyone's written statement, which will become a part of the record.

Ms. Gallagher, if you could make some comments, and then we will move to Mr. Lindstrom, and Mr. Floyd.

**STATEMENT OF PATRICIA GALLAGHER, EXECUTIVE DIRECTOR, NATIONAL CAPITAL PLANNING COMMISSION**

**ACCOMPANIED BY CHRISTINE SAUM, SENIOR URBAN DESIGNER, NATIONAL CAPITAL PLANNING COMMISSION**

Ms. GALLAGHER. Good morning, Senator. Is this on?

Senator DEWINE. Yes, if you push it down, that is—yes.

Ms. GALLAGHER. Thank you. Good morning, Mr. Chairman, Senator Landrieu, and members of the subcommittee. I am Patti Gallagher, Executive Director of the National Capital Planning Commission. On behalf of the Commission, I thank you for this opportunity to testify.

We understand from the Conference report language in the Omnibus bill that there is concern that NCPC may be delaying the District of Columbia Courts' plans to renovate the Old City Hall at Judiciary Square, and we are here today to assure you and the members of the subcommittee that NCPC has not delayed this renovation.

NCPC began working closely with the Courts and the National Law Enforcement Officers Memorial Fund in Spring 2003 during the preparation of the draft Judiciary Square Master Plan. In May 2003, the Courts gave an informational presentation on the master plan to our Commission. And then in August 2003, the Commission adopted this draft plan.

NCPC staff has been working closely with both parties to ensure that the redevelopment of Judiciary Square, including the Old City

Hall renovation, meets the highest standards of planning and urban design. This process is complicated in that we are working to satisfy the requirements of two legislative mandates, the National Law Enforcement Museum Act of 2000, and the District of Columbia Family Courts Act of 2001.

Through the latter, Congress mandated to the D.C. Courts that they have to reorganize and improve the Courts' services and facilities.

In the National Law Enforcement Museum Act, Congress authorized the Memorial Fund to build its museum on Federal land that partially abuts the Old District of Columbia City Hall, which is to be expanded and renovated for re-use by the District of Columbia Court of Appeals. The Act requires the Memorial Fund to construct the majority of its museum underground and limit its aboveground construction to two 10,000-square-foot entrance pavilions.

In addition, the Act requires a 90-foot setback from the renovated Old City Hall and a requirement to maintain a 100-foot-wide zone, or plaza, on the north-south axis of the Old City Hall where no aboveground museum construction is permitted. These areas are depicted on the map attached to my written testimony.

Our Commission is faced with the challenge of complying with both mandates, while respecting each of the parties' separate and distinct visions for the common plaza area. The Courts and the Memorial Fund each consider the plaza to be a key part of the entrances to their buildings, and they continue to fundamentally disagree on the level of construction and design control each party is permitted to have within the plaza area.

The Memorial Fund asked NCPC in its March and May 2003 submissions to review proposed memorial designs and museum designs that would have interfered with the entrance to the renovated Old City Hall. Since these submissions were clearly in conflict with the Act's requirement that the plaza area be kept open, the applicant withdrew both submissions.

Subsequently, in July 2003, the Courts submitted its draft Judiciary Square Master Plan. This master plan depicted the plaza as an unobstructed open space extending from the renovated courthouse's new entrance to E Street, Northwest. The Memorial Fund opposed that aspect of the master plan on the basis that it, not the Courts, had the authority to design the plaza area.

As Congress has addressed, the renovation of the Old City Hall for re-use by the Courts is an important Federal project. And delays in its construction could needlessly increase the cost to taxpayers.

Our Commission recognized this urgency and on August 7, 2003 approved the draft Judiciary Square Master Plan. And in an effort to move both projects forward, our Commission departed from its normal process of requiring an approved master plan, and authorized the Courts and the Memorial Fund to proceed with the design submissions for their individual projects.

A unified integrated plaza design is essential for both projects to have unimpeded access to their respective entrances. Therefore, our Commission asked the parties to mutually agree on a design solution before requesting further NCPC approval.

Although NCPC staff has been working with both sides since last spring to facilitate an acceptable solution, we are unable to report progress, that an agreement has been reached. However, on February 13th, the Courts presented to the NCPC staff for the first time an interim design that would maintain the plaza as an open area, and one that would provide sufficient space for the Memorial Fund to construct its entrance pavilions while allowing both projects open access to their respective entrances.

The Courts' proposed design is an uncomplicated landscape solution that could be modified when the Memorial Fund completes its fund raising and is prepared to proceed with construction.

We understand that the Courts are prepared to move forward with this interim design despite the inevitable disruption to the plaza area and its entrances once the design of—once the museum design construction begins.

Our staff opinion of the Courts' interim design is that it appears to respect the design parameters set out in the National Law Enforcement Museum Act. We feel that it is a viable solution that should satisfy both parties and allow the Courts' construction project to move forward.

#### PREPARED STATEMENT

We have spoken to both the Courts and the Memorial Fund to encourage the use of this interim design as an acceptable solution and have informed them that this design, if accepted by both parties, would be eligible for immediate review by our Commission. Our staff and the Commission will do our utmost to accommodate the Courts' timetable and to complete our review as expeditiously as possible.

Mr. Chairman, this concludes my testimony.

Senator DEWINE. Thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF PATTI GALLAGHER

Good morning Mr. Chairman and members of the Committee. I am Patti Gallagher, Executive Director of the National Capital Planning Commission (NCPC). I would like to thank you on behalf of the Commission for this opportunity to testify. We understand from the Conference report language in the Omnibus bill that there is concern NCPC may be delaying the District of Columbia Courts' plans to renovate the Old City Hall at Judiciary Square. I would like to assure you and the members of this Committee that NCPC has not delayed this renovation.

NCPC began working closely with the Courts and the National Law Enforcement Officers Memorial Fund (Memorial Fund) in spring 2003 during the preparation of the draft Judiciary Square Master Plan. In May 2003 the Courts gave an information presentation on the master plan to our Commission, which adopted the draft plan in August 2003. NCPC staff has been working closely with both parties to ensure that the redevelopment of Judiciary Square, including the Old City Hall renovation, meets the highest standards of planning and urban design.

This process is complicated in that we are working to satisfy the requirements of two legislative mandates—the National Law Enforcement Museum Act (Public Law 106-492) and the District of Columbia Family Courts Act of 2001. Through the latter, Congress mandated to the D.C. Courts that they reorganize and improve the Courts' services and facilities. In the National Law Enforcement Museum Act (the Act), passed in November 2000, Congress authorized the Memorial Fund to build its museum on Federal land that partially abuts the Old District of Columbia City Hall, which is to be expanded and renovated for re-use by the District of Columbia Court of Appeals. The Act requires the Memorial Fund to construct the majority of its museum underground and limit its aboveground construction to two 10,000-square-foot entrance pavilions. In addition, the Act requires a 90-foot setback from

the renovated Old City Hall and a requirement to maintain a 100-foot-wide zone, or plaza, on the north-south axis of the Old City Hall where no aboveground museum construction is permitted. These areas are depicted on the attached map.

Our Commission is faced with the challenge of complying with both mandates, while respecting each of the parties' separate and distinct visions for the common plaza area. The Courts and the Memorial Fund each consider the plaza to be a key part of the entrances to their buildings and they continue to fundamentally disagree on the level of construction and design control each party is permitted to have within the plaza area.

The Memorial Fund asked NCPC in its March and May 2003 submissions to review proposed museum designs that would have interfered with the entrance to the renovated Old City Hall. Since these submissions were clearly in conflict with the Act's requirement that the plaza area be kept open, the applicant withdrew both submissions. Subsequently, in July 2003, the Courts submitted its draft Judiciary Square Master Plan. This master plan depicted the plaza as an unobstructed open space extending from the renovated courthouse's new entrance to E Street NW. The Memorial Fund opposed that aspect of the master plan on the basis that it, not the Courts, had the authority to design the plaza area.

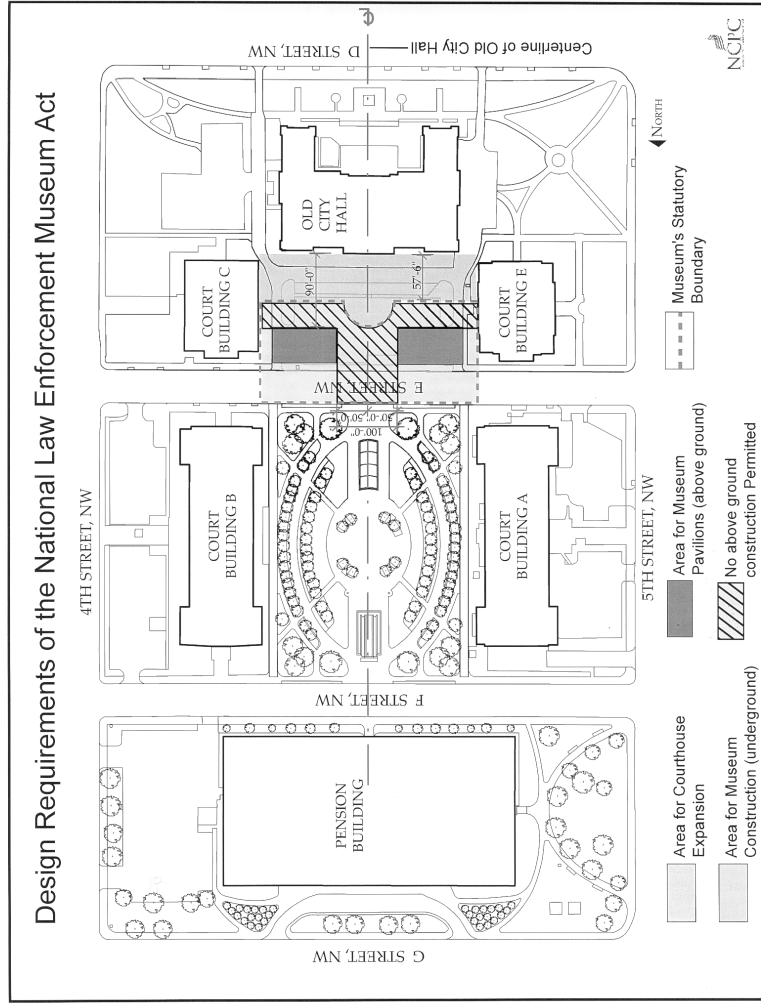
As Congress has addressed, the renovation of the Old City Hall for re-use by the Courts is an important Federal project and delays in its construction could needlessly increase the cost to taxpayers. Our Commission recognized this urgency and on August 7, 2003 approved the draft Judiciary Square Master Plan. In an additional effort to move both projects forward, our Commission departed from its normal process of requiring an approved master plan, and authorized the Courts and the Memorial Fund to proceed with design submissions for their individual projects.

A unified integrated plaza design is essential for both projects to have unimpeded access to their respective entrances. Therefore, our Commission also asked the parties to mutually agree on a design solution before requesting further NCPC approval. Although NCPC staff has been working since August with both sides to facilitate an acceptable solution, we are unable to report that an agreement has been reached. Very recently however, on February 13, 2004 the Courts presented to NCPC for the first time an interim design that would maintain the plaza as an open area, and provide sufficient space for the Memorial Fund to construct its entrance pavilions while allowing both projects open access to their respective entrances. The Courts' proposed design is an uncomplicated landscape solution that could be modified when the Memorial Fund completes its fundraising and is prepared to proceed with construction of the museum. We understand that the Courts are prepared to move forward with this interim design despite the inevitable disruption to the plaza area and its entrance once the museum begins construction.

Our staff opinion of the Courts' interim design is that it appears to respect the design parameters set out in the Act. We feel that it is a viable solution that should satisfy both parties and allow the Courts' construction project to move forward. We have spoken with both the Courts and the Memorial Fund to encourage the use of this interim design as an acceptable solution and have informed them that this design, if accepted by both parties, would be eligible for immediate review by our Commission. Our staff and the Commission will do our utmost to accommodate the Courts' timetable and to complete our review as expeditiously as possible.

This concludes my testimony. I would be happy to answer any questions you may have.





Senator DEWINE. Mr. Lindstrom.

**STATEMENT OF FREDERICK J. LINDSTROM, ASSISTANT SECRETARY,  
U.S. COMMISSION OF FINE ARTS**

Mr. LINDSTROM. Certainly. Good morning, my name is Frederick Lindstrom, and I am the Assistant Secretary of the Commission of Fine Arts. I am substituting today for our Secretary, Charles Atherton, who could not be present today.

The Commission appreciates the opportunity to join the discussion on the status of the renovations to the Old City Hall for the D.C. Court of Appeals and the construction of the new National Law Enforcement Museum. As you know, discussions relating to the renovation of the Old City Hall date back quite a few years, and the Commission has been supportive of the building's reuse as an operating courthouse.

The existing configuration of the monumental entrance on this important building does not allow for ADA accessibility; nor will it allow for the addition of the required visitor security screening facility on the south side of the building without adversely affecting the structure's historic character. Therefore, the Courts have pursued reestablishing a new public entrance on the north side of the building, where one existed up until the 1917 renovation.

With the passage of Public Law 106-492, that authorized and specified the location of the new museum, it has been our expectation that both projects would be able to coexist in Judiciary Square and that the sponsors and their architects would fully coordinate and cooperate on developing the designs. So far, the Commission has been disappointed by the lack of coordination and cooperation and the inability to develop complementary designs that will enhance the historic setting of Judiciary Square.

The Commission believes that the new museum serves a very worthy objective. However, access to the Courts building should not be obstructed or physically compromised by another use. The dignity of the public entrance to the courthouse must come first.

We believe that other designs should be investigated to see if the Courts and the Law Enforcement Museum can achieve the openness and accessibility that both projects desire and deserve. With passage of Public Law 106-492, that has in a way, since that was signed into law, has inhibited that exploration of other possibilities, at least for the museum.

One possible way that we have suggested, the Commission has suggested to avoid the inherent conflicts between the museum and the Courts, would be to locate the museum's main entrances to the other side of E Street, at the southern edge of the Memorial Plaza. And this is a realistic possibility considering that the major portion of the underground museum has been authorized to extend under E Street to its northern curb line. And there may be other alternatives worth exploring as well.

**PREPARED STATEMENT OF CHARLES H. ATHERTON, SECRETARY,  
COMMISSION OF FINE ARTS**

From the very beginning of the review process, we have emphasized the need for coordination of all the projects currently slated for Judiciary Square, and there are quite a few projects that are

slated for the Square at this time. And it is essential that all of these projects be fully coordinated and work in a cooperative fashion for an acceptable design to be achieved.

This concludes our written testimony, and I would be happy to respond to any questions you might have, Mr. Chairman.

Senator DEWINE. Yes. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF CHARLES H. ATHERTON

Good Morning, my name is Charles Atherton and I am the Secretary of the Commission of Fine Arts. The Commission appreciates the opportunity to join your discussion on the status of the renovations to the Old City Hall for the D.C. Court of Appeals and the construction of the new National Law Enforcement Museum. As you may know, discussions related to the renovation of the Old City Hall date back quite a few years and the Commission has been supportive of the building's reuse as an operating courthouse. The existing configuration of the monumental entrance on this important building does not allow for ADA accessibility, nor will it allow for the addition of the required visitor screening facility on this side of the building without adversely affecting the structure's historic character. Therefore, the Courts have pursued reestablishing a new public entrance to the north side of the building, where one existed until the 1917 renovation.

With the passage of Public Law 106-492, that authorized and specified the location of the museum, it has been our expectation that both projects would be able to coexist in Judiciary Square and that the sponsors and their architects would fully coordinate and cooperate on the designs. So far, the Commission of Fine Arts has been disappointed by the lack of coordination and cooperation and the inability to develop complementary designs that will enhance the historic setting of Judiciary Square. The Commission believes that the new museum serves a worthy objective, however; access to the court building should not be obstructed or physically compromised by another use. The dignity of the public entrance to a courthouse must come first.

We believe that other designs should be investigated to see if the Courts and the Law Enforcement Museum can achieve the openness and accessibility that both projects desire and deserve. One possible way to avoid the inherent conflicts between the museum and the courts would be to locate the museum's main entrance(s) to the other side of E Street, at the southern edge of the memorial plaza. This is a realistic possibility considering that a major portion of this underground museum has been authorized to extend under E Street to its northern curb line. There maybe other alternatives as well.

From the beginning of the review process we have emphasized the need for coordination of all the projects currently slated for Judiciary Square. It is essential if an acceptable design is to be achieved.

This concludes our written testimony. I would be happy to respond to any questions you might have.

Senator DEWINE. Mr. Floyd.

**STATEMENT OF CRAIG W. FLOYD, CHAIRMAN, NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL FUND**

Mr. FLOYD. Mr. Chairman, our organization is a major stakeholder in Judiciary Square. In 1991, at the direction of the United States Congress we built and now assist the National Park Service in the maintenance and operation of the National Law Enforcement Officers Memorial in Judiciary Square.

In November 2000, the Congress gave us a further authorization to build a National Law Enforcement Museum right across the street from the National Memorial. The National Law Enforcement Museum Act was authored by a distinguished member of the Senate Appropriations Committee, U.S. Senator Ben Nighthorse Campbell.

Congress was very specific in terms of our authority to build this museum. The site and precise boundaries of the museum were

spelled out in very clear terms, and a diagram showing the museum's boundaries is displayed for your convenience. Two above-ground pavilions, totaling approximately 10,000 square feet, will serve as the entrances to the museum. The rest of the museum facility, approximately 80,000 square feet, will be located underground.

And I should point out, Mr. Chairman, that this museum will be funded exclusively through private donations. No taxpayer dollars are going to be used at all.

The boundaries of the site laid out in the authorizing law were established after much discussion and many meetings with the Committee on Administration of the District of Columbia Courts, after they informed us of their plans to renovate and expand the Old Courthouse building.

Recognizing that our two projects are linked so closely in proximity, the public review agencies have required that we consult with the Courts in our design plans for the museum plaza area, and mutually agree on an acceptable solution. We are working in good faith toward a final resolution. However, it must be noted, Mr. Chairman, that we have some serious differences with the Courts about the design of the museum plaza area.

First and foremost, we believe it is essential that the Memorial Fund and our architects design, build and maintain the museum plaza area, just as the Courts should be allowed to design, build and maintain the areas within their boundaries. The Courts disagree and have included the museum plaza, the space between this and surrounding the museum pavilions in their design plans.

Not only is this in conflict with the authority that Congress gave the Memorial Fund over that property, but their plans have ignored a number of our stated needs and concerns.

The museum plaza is, in fact, the roof of our \$70 million museum. There are many technical, aesthetic and practical considerations when designing and maintaining the roof and plaza area of our museum; air ventilation, visitor staging, water leakage, and skylights to let natural light down into the museum, to name just a few.

It should be noted that we are anticipating between 300,000 and 500,000 visitors annually. On peak days, visits may exceed 4,500 people. The museum is requiring security screening at the pavilion level. The plaza design must take into account this queuing requirement. For these important reasons, we cannot cede control of the museum plaza area to the Courts or to anyone else.

Further, Senator Campbell addressed this issue in very strong terms in a letter to the Chairman of the Commission of Fine Arts in October of 2003. He said, in part, "The public law provides full use and control of the museum site, aboveground and underground, to the Memorial Fund. Any accommodation to others with regard to the use or access of the museum site, including the plaza area between the two entrance pavilions, is and will be at the sole discretion of the Memorial Fund."

We are also concerned about the timing of our two projects. While the construction and renovation of the Courthouse is planned for 2005 to 2006, construction on the museum is not ex-

pected to commence until at least 2007, and Congress actually granted us until 2010 to begin construction.

This means that no matter what the Courts decide on for the final design for the courthouse, and any entry on the north side, they must include a long-term interim solution. It would be irresponsible and a waste of taxpayer dollars to design and build anything on the north side of the courthouse that would have to be demolished when we begin construction on the museum.

Finally, let me state that the Memorial Fund is committed to accommodating the future access and usage needs of the Courts. Any final solution must work for both the Courts and the Memorial Fund. However, we are not prepared to relinquish control of the museum plaza area, as defined by the boundaries in the Museum Authorization Act. And we are not prepared to make concessions that will in any way appear to diminish the National Law Enforcement Museum's importance or presence in Judiciary Square.

And let me just make one final comment. This is the first I have heard of the Commission of Fine Arts' suggestion that we move our entrance to the Memorial side of E Street, the north side. We explored that option. Judge Wagner and I together looked at that very closely. I responded to the Judge's concerns in that area. And two things prevented us from doing that. One, the National Park Service strongly opposes the idea. They own and control the National Law Enforcement Officer's Memorial, and they do not think it should be disrupted in any way. And secondly, any major entrance to the museum on that site would cause a major disruption and really demolition of a major portion of the National Law Enforcement Officer's Memorial, including part of the memorial walls that include more than 16,000 names of fallen officers.

#### PREPARED STATEMENT

And for those reasons, I have indicated to Judge Wagner that that would not be an acceptable solution, but we did explore it carefully.

Senator DEWINE. Thank you.  
[The statement follows:]

#### PREPARED STATEMENT OF CRAIG W. FLOYD

Mr. Chairman, I am very pleased to have this opportunity to testify on the appropriations request by the District of Columbia Courts to renovate and expand the Old Courthouse Building in Judiciary Square. I am here today on behalf of our board of directors, which is comprised of representatives from 15 national law enforcement organizations (copy of board of directors and organizations they represent is attached). Collectively, these organizations represent virtually every law enforcement officer, family member and police survivor in the United States.

Our organization, the National Law Enforcement Officers Memorial Fund, is a major stakeholder in Judiciary Square and has great interest in any construction and renovation plans in the area. In 1991, we built and now assist the National Park Service in the maintenance and operation of the National Law Enforcement Officers Memorial in Judiciary Square. Today, that Memorial stands proudly as a richly deserved tribute to the more than 16,000 law enforcement officers who have been killed in the line of duty and whose names are inscribed on the Memorial's marble walls, including 698 from your home State of Ohio, Mr. Chairman.

In November 2000, the Congress gave us a further authorization to build a National Law Enforcement Museum in Judiciary Square, right across the street from the National Memorial. The "National Law Enforcement Museum Act," Public Law 106-492 (copy attached), was authored by a distinguished member of the Senate Appropriations Committee, U.S. Senator Ben Nighthorse Campbell. As a former deputy

sheriff, Sen. Campbell has a special understanding and appreciation of the extraordinary level of service and sacrifice that our law enforcement officers have given our Nation.

Sen. Campbell also knows that many other Americans lack that understanding and appreciation, mainly because they are not familiar with the dangers and importance of the job, or the proud history of the law enforcement profession. The proposed museum will help to educate Americans about the police profession's worth to our country by properly commemorating law enforcement's outstanding record of service and sacrifice.

Congress was very specific in terms of our authority to build this Museum. The site and precise boundaries of the Museum were spelled out in very clear terms. (A diagram showing the Museum's boundaries is attached for your convenience.) Two above ground pavilions, totaling approximately 10,000 square feet, will serve as the entrances to the Museum. The rest of the Museum facility, approximately 80,000 square feet in size, will be located underground.

The authorizing law specifically states that the National Law Enforcement Officers Memorial Fund "shall own, operate, and maintain the Museum after completion of construction." Congress also required that "The United States shall pay no expense incurred in the establishment or construction of the Museum." All of the funding for this Museum, just as it was for the Memorial, will come from private funds. No taxpayer dollars will be used. Finally, Congress stipulated that sufficient funds to complete construction of the Museum must be available before we are allowed to commence construction. We were given until November 2010 to begin construction of the Museum, or our authority to build the Museum will terminate.

The boundaries of the site laid out in the authorizing law were established after much discussion and many meetings with the Joint Committee on Administration of the District of Columbia Courts, which has plans to renovate and expand the Old Courthouse building to the south of the Museum site. We have been very sensitive to their needs and interests throughout this process. In fact, we fully supported a provision that was included in the Museum Act authorizing the Courts to construct an underground parking structure to better meet their security and parking needs.

We also agreed to a provision in the Museum authorizing law that calls for us to "consult with and coordinate with the Joint Committee on Administration of the District of Columbia courts in the planning, design, and construction of the Museum." I believe the record is clear that the consultation and coordination called for in the legislation has occurred, and it will certainly continue to occur until the Museum is completed. (A chronology of that consultation and coordination is attached.)

Let me say for the record that the renovation plans of the D.C. Courts for the Old Courthouse building are certainly consistent with our own efforts to appropriately restore the Judiciary Square precinct to a condition equal to its historic significance. The establishment of the National Law Enforcement Officers Memorial as the centerpiece of the Judiciary Square complex was a major step in this direction. Completion of the National Law Enforcement Museum and the renovation of the Old Courthouse building will fulfill this important vision.

Recognizing that our two projects are linked so closely in proximity, both the National Capital Planning Commission, and the Commission of Fine Arts have required that we collaborate with the Courts in the design plans for the Museum plaza area, and mutually agree on an acceptable solution. We are working in good faith toward a final resolution. However, it must be noted, Mr. Chairman, that we have some serious differences with the Courts about the design of the Museum plaza area.

First and foremost, we believe it is essential that the Memorial Fund and our architects design, build and maintain the Museum plaza area. The Courts disagree and have included the Museum plaza in their design plans, which simply do not take into consideration our needs and concerns. For example, their plans do not provide the skylights we need to allow natural light down into the underground Museum area. Their plans call for the elimination of an important outdoor reception plaza area, and their proposed water elements pose water leakage hazards that would be out of our control and pose serious risks to our \$15 million worth of exhibits below. We believe that their proposed monumental staircase and large glass entranceway would serve to overwhelm the Museum pavilions and diminish the Museum's presence and importance.

The Museum plaza is, in fact, the roof of our \$70 million Museum. There are many technical, aesthetic and practical considerations when designing and maintaining the roof and plaza area of our Museum—air ventilation, visitor staging, water leakage, and skylights to let natural light down into the Museum, to name just a few. It should be noted that we are anticipating between 300,000 and 500,000 visitors annually. On peak days, visits may exceed 4,500 people. The Museum is re-

quiring security screening at the pavilion level. The plaza design must take into account this queuing requirement. For these important reasons, we cannot cede control of the Museum plaza area to the Courts or anyone else.

Further, Sen. Campbell addressed this issue in very strong terms in a letter to the Chairman of the Commission of Fine Arts dated October 14, 2003 (copy of letter attached). He said, in part:

“It was always my intent, and the authorizing law clearly states, that the National Law Enforcement Officers Memorial Fund, Inc. (“Memorial Fund”) shall be solely responsible for preparation of the design and plans for the Museum, subject to the approval of the Secretary of the Interior, the CFA and the National Capital Planning Commission. Further, the public law provides full use and control of the Museum site (aboveground and underground) to the Memorial Fund. Any accommodation to others with regard to the use or access of the Museum site, including the plaza area between the two entrance pavilions, is and will be at the sole discretion of the Memorial Fund.”

We believe that our needs and interests in the plaza area, along with the stated access needs of the Courts, can be successfully addressed. We have been sharing ideas with the Courts on the Museum plaza area for several months now, and the next meeting is scheduled for this Friday, February 27. Our architects will be providing the Courts with our latest design plans and I am confident that we are getting close to a final resolution on this important issue.

We are also concerned about the timing of our two projects. While the construction and renovation of the Courthouse is planned for 2005–2006, construction on the National Law Enforcement Museum is not expected to commence until at least 2007, and Congress actually granted us until 2010 to begin construction. Under even the most optimistic schedule, the Museum would not be completed until at least 2009, and at the outside, by 2012. This means that no matter what the Courts decide on for the final design for the Courthouse, and any entry on the north side, they must include a long-term interim solution. It would be irresponsible and a waste of taxpayer dollars to design and build anything on the north side of the Courthouse that would have to be demolished when we begin construction on the Museum. In fact, our construction plans call for closing E Street for approximately 18–24 months, so access on the north side of the Courthouse will be severely limited during that time.

Finally, let me state that the Memorial Fund is committed to accommodating the access and usage needs of the Courts. While our earlier plans were not successful in meeting those needs, we are working aggressively toward a final resolution. Any final solution must work for both the Courts and the Memorial Fund. However, we are not prepared to relinquish control of the Museum plaza area, as defined by the boundaries in the Museum Authorization Act. And, we are not prepared to make concessions that will in any way appear to diminish the National Law Enforcement Museum’s importance or presence in Judiciary Square. As Sen. Campbell said in his October letter to the Commission of Fine Arts:

“This Museum should never be allowed to become a secondary consideration. Our Nation’s law enforcement officers, especially the thousands of fallen heroes who are honored across the street at the National Law Enforcement Officers Memorial, deserve no less.”

I know, Mr. Chairman, that you and the other Subcommittee members share that opinion. We look forward to working with the Courts and with this Subcommittee in ensuring that the rightfully grand vision we all share for Judiciary Square is fully realized.

Senator DEWINE. Senator Landrieu.

#### LOCATION OF THE MEMORIAL AND MUSEUM

Senator LANDRIEU. Mr. Chairman, I really appreciate you bringing this group together so that we can perhaps explore some options that work well for the Courts and work well for the museum.

And you will have to forgive me, because we are not familiar with all of this, many of the details, but maybe a little background would be helpful to me, Mr. Floyd, about how the memorial got to Judiciary Square in the first place. And as you and the organization that we want to be very respectful to searched for spaces to

put this museum, how did you come across or settle on this particular space?

Mr. FLOYD. Well, it was approximately 1988 when we toured Washington to find an appropriate location for the National Memorial. And with the help of the National Park Service and the Commission of Fine Arts and the National Capital Planning Commission, we realized that there was strong linkage between law enforcement and Judiciary Square. It is the seat of our Nation's judicial branch of government and the seat of the criminal justice in this Nation of ours.

And everyone involved felt that that would be the appropriate location for a National Memorial honoring law enforcement, so that is how we first arrived at Judiciary Square in 1988. We built the memorial in 1991.

And then when we decided to build a museum to complement the memorial and further our mission, we felt that it needed to be located very close to where the memorial is. There needed to be close proximity. We explored the area, and the Federal property that now serves as the court parking lot across E Street to the south we viewed as the prime location for that.

Congress agreed with us when we took that proposal to them, and they unanimously approved the legislation authorizing that site for our museum.

And I should point out and emphasize that Judge Wagner was very helpful in negotiating that site for us. We spent many months talking this through and defining the boundaries of our museum so that it would not impact negatively on their courthouse.

Senator LANDRIEU. Because both of these projects are so important, and I am just wondering maybe, Ms. Gallagher or Mr. Lindstrom, things that Congress does and can undo, things that Congress does and can change—you know, it is not—anything is not in stone. Even things that are built are torn down and redone. So I want to not just—I want to explore all of the options.

And you all have worked with the law enforcement folks. I know that area is developed quite a bit and part of the challenge is that there is so much being constructed and built all along that area in the Mall. But is there any other space of land other than this particular plaza that the museum could be located near to the memorial, which is important for them, or is this just the only spot that they can be in?

Mr. LINDSTROM. Well, I—let me back up. With the—before the public wall, I do not believe that they consulted with the Commission of Fine Arts on the siting of the museum. And I know that was before your time, Ms. Gallagher. So this law was passed without a conference with our commissioners of the appropriateness of actually locating it under E Street.

So once the law was passed, all those explorations were sort of moot. There are, perhaps not, open spaces in Judiciary Square, but there are other structures that could be rehabilitated for the museum, just as the Courts is doing for the Old City Hall, rehabilitating it for their new court.

The building that comes to mind is the building that is immediately adjacent to the west side of Memorial Plaza.



Senator LANDRIEU. Could you explain it out with the map? Because, Mr. Floyd, unless, you know, one possible solution—and I realize the plaza is very important. We respect the law enforcement across the country, and we want you all to have something that, you know, we are all very proud of, and really fulfills our mission.

But I am wondering if there were—if we could help you, if there are other buildings that are very, you know, right on the plaza, so, A, we are not going underground. Is there a particular reason why you want to go underground as opposed to being on top of the ground? And if you can be on top of the ground just as easily as you can be under the ground, maybe we can help you find a building and help you build it.

Mr. FLOYD. I appreciate that, Senator. I would respond with two things. One, there was a public hearing that the Senate held on this issue when we were discussing the site for this museum.

The Commission of Fine Arts and other agencies did testify. And I believe there was fairly universal support for the proposal. The National Park Service also testified. We did explore other options, some of the existing buildings, court buildings surrounding us, for example, and just found those buildings unsuitable for a museum.

It is important to understand that a museum requires certain space requirements and openness and so forth. We did not find any of the buildings in the area suitable for that. And Congress, after due deliberation I should point out, and working with a number of the public review agencies and the National Park Service, felt that the Court property, the Court parking lot property that ended up being the site for the museum was the best and most appropriate location.

Senator LANDRIEU. Well, and I realize that, and I know that you all have worked a great deal on this, and I am not going to reach any conclusion. I am just exploring our options, because they are all very good public purposes that are being discussed. And there are other buildings and other spaces and, you know, there are a lot of demands on this little plot of land called the District of Columbia, which is a district. And there are lots of—you know, it is the City, it is also the Nation's Capital, it is also the Park Service for recreation, so we go through this all the time. This is not anything that is unusual.

But I am just thinking for the extent of the renovations the Court needs, and you want to do a good job with your—of course, with your project. I mean, is it too late to, in your opinion, to just explore other options or buildings, even if—now, I am not sure if there are any buildings that could actually be demolished and constructed new for you. I do not know if we would be restricted in that, because maybe all of these are historic buildings and cannot be.

Mr. FLOYD. Senator, I can only say that we have already spent over \$3 million to—

Senator LANDRIEU. Oh, right.

Mr. FLOYD [continuing]. Develop this site and to develop the plans for the museum. The schematic design plans for the building have already been completed. I think we have spent over \$600,000 to accomplish that. I think it would be a great misuse of our do-

nors' money to now revisit the idea of moving elsewhere. And I will say, I appreciate the concern—

Senator LANDRIEU. That is a problem, because you have got \$3 million in private dollars—

Mr. FLOYD. Yes.

Senator LANDRIEU [continuing]. Committed to this site.

Mr. FLOYD. Yes. Well, we are totally committed. And Judge Wagner and I, I think, need to get together. We have tried to hand this off to our architects most recently, I am afraid without great success, although they have another meeting scheduled for Friday.

And I think we are getting closer. They came to us with a plan early February that our architects are now going to be responding to on Friday. I think once that occurs, Judge Wagner and I can sit down and talk.

We are going to work this out. I really do not think we are that far away. So the idea of, you know, can we both live on that site? I think the answer is absolutely yes. I do not think Judge Wagner would have agreed to the legislative solution that we proposed back in 2000 if she did not agree with that.

Senator DEWINE. Let me just say, if I could jump in here, we need a deadline. We have got—this subcommittee provides 100 percent of the funds for the District for the Courts. We have got a responsibility to make sure we do not have overruns, that we do not waste money.

Senator Landrieu.

Senator LANDRIEU. Mr. Chairman, before we—Eleanor, I just wanted to recognize that you were here before you left. I just want to recognize the Congresswoman from the District, as well as our shadow Senator, Paul Strauss, but thank you all. We have received your—

Ms. NORTON. Thank you for holding the hearing. Thank you very much.

Senator DEWINE. It is good to see you.

Senator LANDRIEU. Thank you.

#### SITE PLANS

Senator DEWINE. We have got—you know, we have got an obligation to move on.

Ms. Gallagher, you were—do you want to describe the physical problem here? I saw your model back there. Not that we are going to—not that Senator Landrieu and I are going to get into this here. We are not. We cannot.

Ms. GALLAGHER. Well, there is a—what we interpret as an obstruction in the Memorial Fund's design for the plaza. Abovegrade construction that—that we perceive in the last—

Senator DEWINE. I cannot see it.

Ms. GALLAGHER. I think, if I may with your permission, our chief architect is here and she may be able to describe this.

Senator DEWINE. Yes, just briefly.

Ms. GALLAGHER. Yes.

Senator DEWINE. Just real briefly.

Ms. SAUM. In a nutshell—

Senator DEWINE. For the record, what is your name, ma'am?

Ms. SAUM. My—I am sorry. My name is Christine Saum. I am a senior urban designer at the National Capital Planning Commission.

The last time we received additional plans for this facility was last spring. But this model appears to me to be pretty much the same, in that the drawings we received last spring, the plaza location here on E Street between the museum pavilions was approximately 8 feet lower than the plaza shown here for the entrance to the courthouse.

Direct access between the two plazas is obstructed by a water feature and a skylight that provides light to the underside, to the lower levels of the museum. And access to the courthouse would be required to pass behind the two museum pavilions by their loading docks and service areas. And we thought that was inappropriate for the entrance of the courthouse and did not——

Senator DEWINE. Why is it inappropriate?

Ms. SAUM. Because we thought that to have the access to a—to an important court, the Superior Court, you should not be required to go around behind the loading dock, essentially. We thought that they needed direct access.

And it was our interpretation of the Museum Act that when it stated that there was a 100-foot-wide area to be maintained where no aboveground construction was to be created, that the purpose for us to provide direct access to the courthouse and not merely to provide open views.

Senator DEWINE. Thank you.

Judge King, Mr. Floyd said he thinks you all are getting close. Of course, that has to satisfy Ms. Gallagher, Mr. Lindstrom, and a lot of other folks——

Judge KING. I will just respond briefly, and then I know——

Senator DEWINE. Are you closer than not?

#### ENTRANCE TO THE OLD COURTHOUSE

Judge KING [continuing]. Chief Judge Wagner will. The Act is plain. It says there is a 100-foot corridor to get to the courthouse, so that it is an entrance, a main entrance with the security features and everything you need for the courthouse. It says that. It is very clear in the Act. I do not think we are close on that.

Since last fall, the Court has revised its effort, its plan, to try to meet some of the concerns at CFA and NCPC. The Memorial has not.

And the one other thing I do not want to let pass without commenting on is: We are renting space, swing space, while we do our renovations. We are depending on all of the buildings in the area, most of which are historic court buildings, for the ultimate filling out of our 10-year plan, so if we start giving those buildings away, then we are going to have to pay for it somewhere else. We are going to have to build space or lease space or do something, and it will become much more disruptive than any plan that we are talking about in terms of the Act as it stands now.

Senator LANDRIEU. So you would prefer them to stay underground where they are, as opposed to having to give up one of the other buildings or use some comparable site. But the problem is

that underground design that they have is not conducive to the functioning of the Courts building generally.

Judge KING. Well, no. The law says they are to have an underground building with two pavilions not to exceed 25 feet in height, and outside a 100-foot corridor that goes from E Street to the Courts buildings.

So, as we say in the courthouse, "Follow the law." That is all we need to do.

Senator DEWINE. Judge Wagner.

Judge WAGNER. May I say something? At the time the Act that was passed, of course, it was not the first bill. It was amended.

And if you look back at the legislative history, you will see that after over 2 months of negotiations, the National Law Enforcement Memorial Fund and the Courts reached an agreement to clarify that the building of this museum will in no way conflict with the Courts' expansion and renovation, which was planned at that time. And so that is how the museum went underground.

And if you have ever been down to the Smithsonian castle on the Mall, the model was essentially that. There is no blockage to the entranceway to the Castle imposed by the two underground museums on the Mall. That was how we thought we could coexist in this very small space.

Symbolically, and given the historic character of Judiciary Square, we were concerned if the entranceway to the courthouse gives the appearance that there is blockage that is imposed by law enforcement. The separation is something that is required, given our way of life and our system of government in this country.

And so within those parameters, we are working to try to accommodate our interests and the interests of the public in having this historic building——

Senator DEWINE. Well, let me——

Judge WAGNER [continuing]. You know——

Senator DEWINE. Yes. I do not think anyone is more supportive of, you know, the National Law Enforcement Fund than Senator Landrieu and I. You know, we want this to move forward very, very, very, very much.

I guess the question is, Mr. Floyd, having heard these comments, where do we go from here?

Mr. FLOYD. I think the basic thing that the Courts want and need and deserve is access to their courthouse on the northern side, which they are planning to build as part of their plan. And I am absolutely personally committed to making that happen.

I agree that the initial design that we developed with above-ground skylights precluded that to—in their mind, because they did not want to go around. They wanted to go straight up the middle. So we are now coming back to them with a design approach that gives us skylights, will allow natural light to get down below, but will give them direct access to their north entry of the courthouse, as their architects proposed to us earlier this month.

It has only been a couple of weeks since we have had a chance to look at their plans, and we are now prepared to respond on Friday. And I think we are all in agreement that we want to give them what they want, and we just want to have control over that space so that we can maintain and deal with water leakage issues

and make sure that we have the staging area for our visitors that we need. Those are our main concerns.

And I do not see this as a major impasse. But their architects and ours have got to work in cooperation.

SUBMISSION TO NCPC AND CFA

Senator DEWINE. I understand. But with all due respect, you know, there has been no agreement for a year. And that is what this committee has to look at, and we have got a fiscal responsibility to make sure something moves here. So, you know, I want you to reach an agreement. I think it is imperative, you know, that this agreement is reached.

So, you know, I am going to put everybody on notice that I expect you to reach an agreement and submit your plans to the National Capital Planning Commission and the Commission on the Fine Arts no later than March 3. If the Courts and the National Law Enforcement Fund cannot reach an agreement by March 3, then the Courts and the Law Enforcement Fund can submit their own individual plans to the NCPC and the Commission.

Finally, I ask the National Capital Planning Commission and the Commission on the Fine Arts to review these plans if they are able, even though the submission deadline for them is viewed as past. This project is time critical and a decision on the design simply cannot slip another month. So that is what we are going to have to do.

So, you know, hopefully we can reach this agreement. I hope you all can get together and in the next couple of days and get this thing ironed out. You know, we want both—you know, we are for all of you. I mean, we really are. And we want, you know—everybody has public policy objectives that I think everyone is for. And there has not been anything said up here that we are not for.

But you are the ones that have to mesh them. We cannot mesh them for you. We are not architects, and we are not sitting in your shoes, but you have got to get it worked out. And if you cannot get it worked out, you are just going to have to submit the plans, I guess, and let them deal with it. So that is where we are.

Mary, anything else?

Senator LANDRIEU. I just—are the architects for Mr. Floyd here?

Mr. FLOYD. They are. Davis Buckley is.

Senator LANDRIEU. Will you stand please, so I can recognize you?

And you are the representing the firm, representing the architects?

Mr. FLOYD. He is the principal, yes.

Senator LANDRIEU. All right. Well, we just hope—I want to support the chairman. I think those deadlines are tight, but there is a real need to work this out. And I am hoping that the architects that are present for both of these projects understand what is being said, and that these are both two beautiful projects, and I am sure with a little bit of understanding, it could be worked out. And if not, then it could jeopardize them both, and that is just not necessary.

So I know money has been spent, but there is going to be hundreds of millions of dollars spent on the final construction of this, so, yes, \$3 million has been spent. But if \$3 million could be spent

up front a little bit better, then we can go ahead and do this for everybody. If not, it can cause a lot of problems.

SUBCOMMITTEE RECESS

Senator DEWINE. I mean, you know, we see this Memorial and that tribute to law enforcement as something we want to see. We want to see the magnificent courthouse restored. And they are two good things we want to have, and let us just make sure it gets done.

Anything else?

Senator LANDRIEU. No.

Senator DEWINE. All right. Thank you all very much. Good luck. [Whereupon, at 10:31 a.m., Wednesday, February 25, the subcommittee was recessed, to reconvene subject to the call of the Chair.]